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**FINAL**  
CITY COUNCIL  
CITY OF WICHITA  
KANSAS

City Council Meeting  
09:00 a.m. August 3, 2010

City Council Chambers  
455 North Main

**OPENING OF REGULAR MEETING**

- Call to Order
- Invocation
- Pledge of Allegiance
- Approve the minutes of the regular meeting on July 27, 2010

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**AWARDS AND PROCLAMATIONS**

- Proclamation:  
National Clown Week

**I. PUBLIC AGENDA**

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

1. Kelly Wendeln-The Great Carbon Dioxide Hoax.

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**COUNCIL BUSINESS**

**II. UNFINISHED COUNCIL BUSINESS**

1. Proposed Amendments to Amusement Parks and Rides Licensing Ordinance Chapter 3.20 of the Code of the City of Wichita. (Deferred July 20, 2010)

RECOMMENDED ACTION: Approve first reading of the Amusement Park and Ride Ordinance adopting amendments to Chapter 3.20 of the City Code relating to amusement park and ride licensing, inspection, operation and enforcement.



### **III. NEW COUNCIL BUSINESS**

1. Public Hearing and Tax Exemption Request, Leading Technology Composites, Inc. (District IV)

RECOMMENDED ACTION: Close the public hearing, and approve first reading of the Ordinance granting Leading Technology Composites a 100% tax exemption on the identified real property improvements for a five year term, plus a 100% tax exemption for a second five-year term, subject to City Council review.

2. Petition to approve a Community Improvement District for Maize 54 Development. (District V)

RECOMMENDED ACTION: Accept the petition and adopt the resolution setting a public hearing on September 14, 2010 for consideration of the establishment of a Community Improvement District.

3. Petition to approve a Community Improvement District for Central Park Place Development. (District V)

RECOMMENDED ACTION: Accept the petition and adopt the resolution setting a public hearing on September 14, 2010 for consideration of the establishment of a Community Improvement District.

4. Petition to approve a Community Improvement District for the Planeview Grocery Store Project, George Washington Boulevard and Pawnee and Resolution considering the establishment of a Redevelopment District, Tax Increment Financing. (District III)

RECOMMENDED ACTION: Accept the petition and adopt the resolutions setting a public hearing on September 14, 2010 for consideration of the establishment of a Community Improvement District and a Redevelopment District for the Planeview Grocery Store Project.

5. An Ordinance Amendment pertaining to exemption of public property from the prohibition against alcohol consumption - outdoor public property within the WaterWalk area.

RECOMMENDED ACTION: Approve first reading of the Ordinance.

6. 2010 Fraternal Order of Police Agreement.

RECOMMENDED ACTION: Approve the proposed 2010 Memorandum of Agreement between the City and Fraternal Order of Police (FOP) Lodge #5.

7. Amendment to Agreement for I.A.T.S.E. Local 190.

RECOMMENDED ACTION: Approve the Amendment to Agreement for International Alliance of Theatrical Stage Employees (I.A.T.S.E.) Local 190.

8. Design Council Review Process.

RECOMMENDED ACTION: Approve the revised Design Council Review Process.

9. Kellogg Freeway, from Cypress to 127th Street East-Revised Design Concept. (District II)

RECOMMENDED ACTION: Approve the revised design concept that provides a free flowing interchange at the KTA, including access controls, and authorize the completion of construction plans.

10. 2011/2012 Annual Operating Budget.

RECOMMENDED ACTION: Receive public comment on the 2011 Proposed Budget.

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**COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES**

**PLANNING AGENDA**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

**IV. NON-CONSENT PLANNING AGENDA**

None

**V. CONSENT PLANNING AGENDA (ITEMS 1 AND 2)**

1. \*SUB2010-00022 - Plat of Ysidro 2nd Addition located on the east side of Broadway, north of MacArthur Road.  
(District III)

RECOMMENDED ACTION: Approve the plat, authorize the necessary signatures and approve first reading of the ordinance.

2. \*VAC2010-00007 – A request to vacate platted easements; generally located west of 159th Street East, south of I-35. (District I)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

## **HOUSING AGENDA**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**Summer Jackson, Housing Member is also seated with the City Council.**

### **VI. NON-CONSENT HOUSING AGENDA**

None

### **VII. CONSENT HOUSING AGENDA**

None

## **AIRPORT AGENDA**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

### **VIII. NON-CONSENT AIRPORT AGENDA**

None

### **IX. CONSENT AIRPORT AGENDA**

None

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## **COUNCIL AGENDA**

### **X. COUNCIL MEMBER AGENDA**

1. Approval of travel expenses for Mayor Brewer to attend the LKM Governing Body Meeting in Manhattan, KS, September 9-10, 2010.

RECOMMENDED ACTION: Approve the expenditures.

### **XI. COUNCIL MEMBER APPOINTMENTS**

1. Board Appointments.

RECOMMENDED ACTION: Approve the Appointments.

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**XII. CONSENT AGENDA (ITEMS 1 THROUGH 12A)**

1. Report of Board of Bids and Contracts dated August 2, 2010.

- a. Report of Board of Bids and Contracts.

RECOMMENDED ACTION: Receive and file report; approve Contracts;  
authorize necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

<u>New</u>	<u>2010</u>	<u>(Consumption on Premises)</u>
Devin W Hansen	Wichita Wagonmasters Chili Cookoff*	600 East Douglas

\* General/Restaurant 50% or more gross revenue from sale of food.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

3. Preliminary Estimates:

- a. (See Attached)

RECOMMENDED ACTION: Receive and file.

4. Consideration of Street Closures/Uses.

- a. Community Events - A Taste of Wichita. (District I)

RECOMMENDED ACTION: Approve the request subject to: 1) hiring off-duty certified law enforcement officers as required; 2) obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; 3) Certificate of Liability Insurance on file with the Community Events Coordinator; and 4) adopt the Resolution.

5. Property Acquisitions:

- Acquisition of a Temporary Easement at 405 South 119th Street for the 119th Street West from Kellogg to Maple Improvement Project. (District V)
- Acquisition of a Temporary Easement at 445 South 119th Street for the 119th Street West from Kellogg to Maple Improvement Project. (District V)
- Acquisition of a Temporary Easement at 12111 West Maple Street for the 119th Street West from Kellogg to Maple Improvement Project. (District V)
- Partial Acquisition of 614 South 119th Street for the 119th Street West from Kellogg to Maple Improvement Project. (District V)
- Partial Acquisition of 1410 and 1412 West 47th Street South for the 47th Street South from Meridian to Seneca Improvement Project. (District IV)
- Partial Acquisition of 1341 South 119th Street for the 119th Street West from Kellogg to Maple Improvement Project (District V)
- Partial Acquisition for Right-of-Way at the Northwest Corner of 119th Street and West Pawnee for the 119th Street, Pawnee Avenue to Kellogg Improvement Project. (District IV)

RECOMMENDED ACTION: Approve budgets and Contracts; authorize necessary signatures.

6. Minutes of Advisory Boards/Commissions

Board of Park Commissioners - Regular Meeting June 21, 2010

Board of Park Commissioners - Summary of Motions July 19, 2010

Wichita Board of Appeals of Refrigeration, Air-Conditioning, Warm Air Heating and Boiler – June 24, 2010

RECOMMENDED ACTION: Receive and file.

7. West Douglas Park. (District IV)

RECOMMENDED ACTION: Approve the amended Bonding Resolution.

8. Firefighter Charitable Foundation Grant. (Districts I, II, IV, V, and VI)

RECOMMENDED ACTION: Approve the grant application process.

9. Resolution Authorizing Filing of Grant Application for the Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) Grant.

RECOMMENDED ACTION: Approve the resolution and authorize the necessary signatures.

10. Petition for public improvements in the Parkstone Addition, north of Douglas, east of Hillside. (District II)

RECOMMENDED ACTION: Approve the new Petition, adopt the Resolution, and authorize the necessary signatures.

11. Claim approval: Victor and Rutan paving in Parkstone Addition, north of Douglas, east of Hillside. (District II)

RECOMMENDED ACTION: Acknowledge the claim as valid for payment as submitted and authorize the payment.

12. Second Reading Ordinances: (First Read July 27, 2010)+

- a. List of Second Reading Ordinances. (See Attached)

RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

**City of Wichita  
City Council Meeting  
August 3, 2010**

**TO:** Mayor and City Council Members

**SUBJECT:** Proposed Amendments to Amusement Parks and Rides Licensing Ordinance  
Chapter 3.20 of the Code of the City of Wichita

**INITIATED BY:** Office of Central Inspection

**AGENDA:** Unfinished Business

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**Recommendation:** Approve first reading of the ordinance amending Chapter 3.20 of the City Code.

**Background:** Chapter 3.20 of the City Code sets forth licensing, inspection and insurance requirements for amusement parks and amusement ride businesses. The ordinance was last amended in 2005. A recent inflatable ride accident in Wichita (March 2010) raised concerns about amusement park and amusement ride licensing, safety, operation and inspection requirements.

In April 2010, at the direction of the City Manager, a multi-department staff team comprised of representatives from the Office of Central Inspection (OCI), Law Department and Wichita Police Department (WPD) developed recommendations for possible ordinance amendments. In early May 2010, the City Manager directed the staff team to obtain input from amusement park and amusement ride industry licensees and/or representatives. During May and June 2010, staff met with licensees and other industry representatives to obtain feedback and suggestions for ordinance amendments.

On June 22, 2010, proposed Amusement Park and Ride Ordinance amendments were presented to the City Council for review and comment during a Council workshop. Based on feedback provided during the Council workshop, the staff team made several minor additional changes to the proposed ordinance amendments, for presentation to the City Council during July 2010.

On July 20, 2010, an ordinance amending Chapter 3.20 of the City Code was presented to the City Council for first reading. A public hearing was conducted. The City Council made some additional suggestions for changes to the proposed ordinance and deferred first reading until August 3, 2010.

**Analysis:** The proposed ordinance amendments address amusement park and amusement ride licensing, safety, operation, operator training, operator and/or patron accountability and ride inspection/certification concerns recently raised by City Council, industry professionals, staff and citizens. After receiving input from the City Council on July 20, 2010, staff made changes to the proposed ordinance relating to reasons for denial of a license (SECTION 5) and revocation or suspension of a license (SECTION 14). The proposed ordinance amendments are summarized below. Ordinance provisions modified after the July 20, 2010 Council meeting are *italicized and underlined*.

- Expanded and/or clarified existing definitions for “amusement park”, “amusement ride”, “inflatable ride”, “temporary ride” and “qualified inspector” (AIMS certification is eliminated and higher level NAARSO II certification will be required for some ride types);
- New definitions for “amusement ride company” (specifically including non-profit enterprises such as schools and churches), “certificate of inspection” (to set forth minimum documentation requirements for required inspection certificates), “kiddie rides” (taken from national standards in order to define the threshold between NAARSO Level I or NAARSO Level II inspector certification requirements), “Level I” and “Level II qualified inspector” (NAARSO only), “licensee”, “operator”, “parent or guardian”, “patron”, “renter”, “serious injury” and “self-inspection”;
- A new “Exceptions” section to better define what types of rides require licensing and inspection;

- New license application and approval requirements, including more specific documentation for each licensed ride (manufacturer, name, type, serial number), additional ride inspection information, additional inspector certification documentation and additional insurance documentation;
- New language to require carnivals and/or circuses to obtain a separate “Community Event” license per Chapter 3.11, when applicable;
- A new section on reasons for license denial, with a two-year “look-back” on ordinance violations; additional language has been added since the July 20, 2010 Council meeting in SECTION 5 stipulating that violations occurring prior to September 1, 2010 shall not be considered in determining if a license shall be issued or re-issued to an applicant or licensee.
- Additional requirements for ride safety inspections by appropriately qualified inspectors (NAARSO Level I or Level II, depending on ride type - AIMS certification is eliminated);
- New requirements for ride inspections during the annual license period and prior to initial ride use;
- New requirements for **on-site** documentation of current ride safety inspections by appropriately qualified inspectors (with current City ride inspection certificate verifications), ride manufacturer installation/safety instructions, and manufacturer recommendations for ride set-up, use and operation;
- New requirements for **on-site** posting of ride safety instructions on or near each ride (for patrons);
- New requirements for licensees and/or operators to: (1) install, use and operate rides in accordance with manufacturer’s instructions/recommendations; (2) post safety instructions on/near rides; (3) provide (and document) ride-specific operator training; (4) provide re-training of operators at least once a year; (5) require that “serious injuries” sustained on rides be reported to the City (911) within one hour, discontinuing use of a such ride until re-inspected by a qualified inspector and deemed safe to operate; and (6) provide notification of any new/used ride purchases to OCI (with appropriate inspection documentation) for City approval/verification prior to first use of such ride;
- New requirements that licensees provide renters amusement ride company information, (current license information, contacts/contact numbers), written ride use and operating instructions, written ride safety and emergency procedures, written ride-specific information (serial number, name, manufacturer), written information on most recent ride inspection and a copy of the current City ride inspection verification;
- New “patron” and “renter” responsibilities/duties regarding general ride safety, operation and use;
- Enhanced enforcement provisions including: extension of enforcement authority to both WPD and OCI; new requirements for on-site rental agreement information, ride information, operating and safety instructions, operator training verification, and inspection documentation (to facilitate enforcement action); new language to allow notices/or and citations to be issued to any accountable party including licensees, operators, patrons and/or renters of rides; increased penalties; additional causes for license suspension or revocation – since the July 20, 2010 Council meeting, language has been added to include as a reason for suspension or revocation violations of the provisions of the Kansas Amusement Ride Act, K.S.A. 44-601, et seq. and amendments thereto, and to stipulate that the licensee or applicant must have “knowingly” given a false statement; and new language allowing either the Police Chief or Superintendent of OCI to initiate suspension or revocation.

**Financial Considerations:** The proposed ordinance amendments add a non-fundable license application fee of \$25, but do not increase other amusement park or amusement ride license fees. There may be some minimal increase to indirect costs associated with increased license and ride inspection/certification review by OCI, and to possible increased code enforcement actions by OCI and/or WPD.

**Goal Impact:** This item impacts the Provide and Safe and Secure Community goal indicator by better ensuring amusement park and amusement ride safety in Wichita.

**Legal Considerations:** The recommended ordinance has been approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve first reading of the Amusement Park and Ride Ordinance adopting amendments to Chapter 3.20 of the City Code relating to amusement park and ride licensing, inspection, operation and enforcement.

**Attachments:** Delineated ordinance amendments.

**First Published in The Wichita Eagle on August 13, 2010**

**ORDINANCE NO. 48-789**

AN ORDINANCE AMENDING SECTIONS 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.090 AND 3.20.100, AND CREATING SECTIONS 3.20.015, 3.20.022, 3.20.023, 3.20.065, 3.20.067, AND 3.20.095 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO AMUSEMENT PARKS AND RIDES AND REPEALING THE ORIGINALS OF SECTIONS 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.090 AND 3.20.100 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.20.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Definitions.** 'Amusement park,' means inflatables, kiddie rides or amusement rides which are permanently attached to the real estate where such rides are operated.

'Amusement ride' means any inflatable or mechanical or electrical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement and shall include, but not be limited to:

(1) Rides commonly known as ferris wheels, carousels, parachute towers, bungee jumping, reverse bungee jumping, tunnels of love and roller coasters;

(2) Equipment generally associated with winter activities, such as ski lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways;

(3) Equipment not originally designed to be used as an amusement ride, such as cranes or other lifting devices, when used as part of an amusement ride;



- (4) Kiddie rides; and
- (5) Temporary amusement rides.

‘Amusement Ride Company’ means in individual, partnership, business, corporation or non-profit entity which:

- (1) operates an amusement park; or
- (2) operates, leases or rents amusement, kiddie or temporary amusement rides.

‘Carnival’ means an amusement enterprise, including a circus, usually consisting of one or more amusement rides, shows, or concessions which is erected or operated within the City on a temporary basis.

‘Certificate of inspection’ means a certificate, signed and dated by the appropriate, qualified inspector, showing that an amusement ride or temporary amusement ride has satisfactorily passed inspection by such inspector.

‘City’ means the City of Wichita.

‘Chief of Police’ means the Chief of Police of Wichita, Kansas or his or her designee.

‘Inflatable’ means any structure fabricated from flexible material, kept inflated by one or more blowers which rely on air-pressure to maintain their shape and are used by participants to bounce, slide, run, jump or climb. Such term includes, but is not limited to: bounce houses, mazes, obstacle courses, inflatable slides, moon walks, inflatable climbing walls, or other similar types of amusement apparatus.

‘Kiddie ride’ means an amusement ride designed primarily for use by children up to twelve (12) years of age that requires simple reassembly procedures prior to operation.

‘Level I Qualified Inspector’ means a person who holds a current level I or higher certification from the National Association of Amusement Ride Safety Officials (NAARSO).

‘Level II Qualified Inspector’ means a person who holds a current level II or higher certification from the National Association of Amusement Ride Safety Officials (NAARSO).

‘Licensee’ means any person to whom a current license has been issued under this chapter authorizing such person to conduct the business of an Amusement Ride Company.

‘Nondestructive testing’ means the development and application of technical methods such as radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual and leak testing to:

- (1) Examine materials or components in ways that do not impair the future usefulness and serviceability in order to detect, locate, measure and evaluate discontinuities, defects and other imperfections;
- (2) assess integrity, properties and composition; and
- (3) measure geometrical characters.

‘Operator’ means a person employed by or compensated by a licensee who is actually engaged in or directly controlling the operations of an amusement ride.

‘Parent or guardian’ means any parent, guardian or custodian responsible for the control, safety, training or education of a minor or an adult or minor with an impairment in need of a guardian or a conservator, or both, as those terms are defined by K.S.A. 59-3051 and amendments thereto.

‘Patron’ means any individual who is:

- (1) waiting in the immediate vicinity of an amusement ride to get into or on the ride;
- (2) getting on or into an amusement ride;
- (3) using an amusement ride;
- (4) getting off an amusement ride; or
- (5) leaving an amusement ride and still in the immediate vicinity of the ride.

‘Patron’ does not include employees, agents or servants of the licensee while engaged in the duties of their employment.

‘Person’ means any individual, association, partnership, corporation, limited liability company, government or other entity.

‘Renter’ means a person who rents, leases or enters into a contract for the rental or use of an amusement ride.

‘Serious injury’ means an injury that results in:

- (1) death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, member, function or system;
- (2) a compound fracture; or
- (3) other significant injury or illness that requires immediate admission and overnight hospitalization and observation by a licensed physician.

‘Self-inspection’ means that the licensee causes the inspection of an amusement ride by an appropriate level qualified inspector without using the services of a third-party inspector.

‘Sign’ means any symbol or language reasonably calculated to communicate information to patrons or their parents or guardians, including

placards, prerecorded messages, live public address, stickers, pictures, pictograms, guide books, brochures, videos, verbal information and visual signals.

‘Superintendent of Central Inspection’ means the Superintendent of Central Inspection for the City of Wichita, Kansas or his or her designee.

‘Temporary amusement rides,’ for the purpose of this chapter, shall be construed to include and mean the operation, leasing or renting of amusement rides which can be, or are, moved from location to location.”

SECTION 2. Section 3.20.015 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Exceptions.** The provisions of this chapter shall not apply to:

- (a) Games, concessions and associated structures;
- (b) Any coin-operated ride that: (i) is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator;
- (c) Non-mechanized playground equipment, including, but not limited to: swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines and physical fitness devices;
- (d) Amusement rides which are used solely for private residential use. As used in this section, ‘private residential use’ shall mean use by the owner of the ride, his or her family and guests for their personal enjoyment for which no admission fee is charged;
- (e) Advertising inflatables or inflatable target games that do not require participants to enter into or climb on;
- (f) Boats, air mattresses, or other flotation devices.”

SECTION 3. Section 3.20.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“License required--Fee.**     (a)     It is unlawful for any person, firm, partnership or corporation to engage in the business of an Amusement Ride Company without having first obtained a license therefore from the City Treasurer or his/her designee and paying a license fee as follows:

(1)     A non-refundable application fee of twenty-five dollars (\$25.00) shall accompany the license application.

(2)     Persons engaged in the operation of amusement parks shall pay an annual license fee of six hundred dollars.

(3)     Persons engaged in the operation of temporary amusement rides, when not part of an amusement park as provided for in subsection (2) of this section, shall pay a license fee as follows:

For twenty or more temporary amusement rides the annual license fee shall be six hundred dollars.

For persons who own, operate, rent, or lease less than twenty temporary amusement rides, the annual license fee shall be thirty dollars per ride.

(b)     A license under this section is not transferable to another person or location. A change in ownership shall require the new owner to secure a new license.

(c)     Licenses shall be issued for a period of one year.

(d)     In addition to the requirements set forth in this chapter, carnivals and circuses are required, when applicable, to obtain a community event license as required by Chapter 3.11 of the Code of the City of Wichita.”

SECTION 4.     Section 3.20.022 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“License – Application.** A person desiring to operate an Amusement Ride Company within the City of Wichita shall file with the City Treasurer a written application upon a form provided for that purpose, which must be signed by the applicant or the applicant’s authorized agent. The following information and documentation is required and shall be submitted with the application:

- (a) Business name, address and telephone number of the licensee;
- (b) A list of the name, manufacturer, type and serial or other identification number (if available) of amusement rides which are used by the licensee, or rented or leased to other persons by the licensee or applicant;
- (c) The name, address and telephone number of the owner of the business;
- (d) Copies of ride inspections as required by Section 3.20.060 of the Code of the City of Wichita;
- (e) Name, address and telephone number of individual inspecting the rides as required by Section 3.20.060 of the Code of the City of Wichita;
- (f) Copy of ride inspector’s certification;
- (g) Proof of liability insurance as required by this chapter;
- (h) All applicable fees as required by this chapter.”

SECTION 5. Section 3.20.023 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Denial of License.** An application for an Amusement Ride Company license or renewal of such license may be denied if:

- (a) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;
- (b) The application is incomplete or does not contain the information required by this chapter;

(c) The applicant fails to comply with any conditions of approval including, but not limited to:

- (1) remittance of all application and licensing fees;
- (2) proof of liability insurance required;
- (3) proof of annual inspection of rides;
- (4) proof of certification of ride inspector;
- (5) obtaining all other permits and licenses required by the City

Code.

(d) The applicant, in the last two years, has violated the requirements of this chapter or the provisions of the Kansas Amusement Ride Act, K.S.A. 44-601, *et seq.* and amendments thereto.

For the purposes of this section, the filing of charges or a conviction in a court of law is not required to establish that a licensee or applicant has previously violated the terms and conditions of this chapter. A certified copy of conviction from any local or state court for any violation contained within subsection (d) is *prima facie* evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest. Violations of this chapter occurring prior to September 1, 2010, shall not be considered in determining if a license shall be issued or re-issued to an applicant or licensee.

The applicant shall be notified of the denial in writing. The denial shall set forth the specific reasons for the denial of the application.”

SECTION 6. Section 3.20.025 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Installation and operation regulations of temporary amusement rides.** All temporary amusement rides shall conform to the following regulations and requirements:

(a) All improvements, and temporary amusement rides installed, erected or operated shall meet and comply with all requirements and regulations provided in and by the building code as set out in Title 18 of this Code, and the electrical code as set out in Title 19 of this Code.

(b) No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with a temporary amusement ride after the hour of ten-thirty p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday; and the volume of noise produced and emitted by such mechanical instruments or devices shall be kept in compliance with Chapter 7.41 of the Code of the City of Wichita regulating noise.

(c) No temporary amusement ride shall be operated after the hours of eleven p.m., Sunday through Thursday, or after the hour of twelve p.m., Friday and Saturday.

Exception: The operation times for musical devices and closing times shall not be applicable for the operation of temporary amusement rides which are operated completely within an enclosed building.”

SECTION 7. Section 3.20.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Installation and operation regulations of amusement parks.** All amusement parks shall conform to the following regulations and requirements:

(a) No amusement park shall be installed or operated in use districts other than those districts where allowed by the Wichita-Sedgwick County Unified Zoning Code, relating to zoning within the corporate city limits of the City of Wichita.



(b) Unless other fence screening is required by the Wichita-Sedgwick County Unified Zoning Code, the entire area within which such amusement park is installed and operated shall be enclosed by a wire fence of a minimum height of five feet or other mode of screening approved by the Superintendent of Central Inspection.

(c) Adequate toilet facilities shall be provided in connection with such amusement park, and shall be constructed and maintained in accordance with the ordinances of the City of Wichita.

(d) Such amusement parks shall be operated in full compliance with all requirements of the health and sanitation ordinances of the City.

(e) All improvements, amusement rides or buildings installed, erected or operated in connection with amusement parks shall meet and comply with all requirements and regulations provided in and by the building code as set out in Title 18 of this Code, and the electrical code as set out in Title 19 of this Code.

(f) No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with an amusement park, or any amusement ride after the hour of ten-thirty p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday; and the volume of noise produced and emitted by such mechanical instruments or devices shall be kept in compliance with Chapter 7.41 of the code of the City of Wichita regulating noise.

(g) Amusement parks shall close and cease operations promptly at 12:00 midnight.

No amusement ride shall be operated after the hours of eleven p.m., Sunday through Thursday, or after the hour of twelve p.m., Friday and Saturday.

Exception: The operation times for musical devices and closing times shall not be applicable for the operation of amusement park attractions and amusement rides which are operated completely within an enclosed building.”

SECTION 8. Section 3.20.040 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

**“Liability insurance.** No person, firm, partnership, non-profit organization, or corporation within the corporate limits of the City shall be licensed as an Amusement Ride Company until a certificate of commercial general liability insurance with coverage of not less than one million dollars per occurrence is deposited and filed with the City Treasurer or his or her designee. The requirement of providing proof of insurance shall not apply if the owner of such amusement ride or park is the state, City or any subdivision of the State of Kansas.

The City will only accept coverage from an insurance carrier who offers proof that it is authorized to do business in the State of Kansas.”

SECTION 9. Section 3.20.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Inspections.** (a) The licensee shall, as part of the license application or renewal, provide the City Treasurer or his or her designee with a certificate of inspection by the appropriate, qualified inspector for the operation of any amusement ride.

Each certificate shall be in a format approved by the Superintendent of Central Inspection and shall include, at a minimum, the following information:

1. The date of inspection;
2. Name, manufacturer, type and serial or other identification number, if applicable, of the amusement ride inspected;

3. The items inspected including, but not limited to, any and all rides, attractions, structures, related utilities, support equipment and supplies;

4. The printed name, address, certification level, date of certification, and signature of the qualified inspector;

5. Specify any and all known defects or dangerous conditions, including defects or conditions which could be reasonably discovered, pursuant to an inspection, concerning any and all rides, attractions, structures, related utilities, support equipment and supplies;

6. The results of the nondestructive testing of the amusement ride which has been conducted in accordance with the recommendation of the manufacturer of the amusement ride and in conformance with standards at least equivalent to the current standards of the American Society for Testing and Materials.

(b) (1) Inspections for inflatables or kiddie rides shall be performed by a Level I qualified inspector.

(2) Inspections for amusement rides, other than inflatables or kiddie rides shall be performed by a Level II qualified inspector.

(c) No amusement ride shall be operated in the City unless such ride has a valid certificate of inspection.

(1) Amusement Park rides erected at a permanent location in the City shall be inspected by a Level II qualified inspector at least once every twelve (12) months.

(2) Inflatable or kiddie rides shall be inspected by a Level I qualified inspector at least once every twelve (12) months.

(3) Temporary amusement rides, with the exception of kiddie rides and inflatables, shall have been self-inspected by a Level II qualified inspector within the preceding thirty (30) days prior to the ride being erected.

(4) The certificate of inspection required by this subsection shall be signed and dated by the appropriate level qualified inspector. A copy of such inspection shall be submitted for review by the Superintendent of Central Inspection.

(5) An inspection verification certificate, issued by the City, shall be posted in plain view on or near the amusement ride in a location where it can easily be seen.”

SECTION 10. Section 3.20.065 of the Code of the City of Wichita, Kansas, is created to read as follows:

**“Operating Requirements.** (a) The licensee shall retain, at all times, current maintenance and inspection records for each ride. These records shall be retained in such a way that segregates the records by ride. Such records shall be available to any officer authorized to enforce the provisions of this chapter and any person contracting with the licensee for the amusement ride’s operation.

(b) No amusement ride shall be operated in the City unless nondestructive testing of the ride has been conducted in accordance with the recommendations of the manufacturer of the ride and in conformance with standards at least equivalent to the current standard of the American Society for Testing and Materials.

(c) Operators of amusement rides must have satisfactorily completed training that includes, the following:

(1) instruction on operating procedures for the ride, the specific duties of the operator, general safety procedures and emergency procedures;

(2) demonstration of physical operation of the ride;

(3) supervised observation of the operator's physical operation of the ride;

(4) the manufacturer's recommendations for operation, set-up, use and maintenance of the amusement ride.

(d) Such training shall occur at least once every twelve months and may be conducted by the licensee or his or her designee.

(e) At the time of renting or leasing a temporary amusement ride, the licensee shall provide, in writing, to the individual renting the ride, the following:

(1) Instructions on operating procedures for the ride;

(2) General safety and emergency procedures;

(3) Name, license number, address and phone number of the amusement ride company;

(4) The name, manufacturer, serial number or other identification number of the amusement ride;

(5) Date of last inspection;

(6) Copy of inspection verification for the amusement ride issued by the City of Wichita.

(f) No amusement ride shall be operated in the City unless the name of each operator trained to operate the ride and the certificate of each such operator's satisfactory completion of training, signed and dated by the trainer, is available to any official designated to enforce this chapter and any person

contracting with the owner for the amusement ride's operation on the premises where the amusement ride is operated, during the hours of operation of the ride.

(g) No amusement ride shall be operated in the City unless there is posted in plain view on or near the ride, in a location where they can be easily read, all safety instructions for the ride.

(h) All amusement rides shall be operated in accordance with the manufacturer's instructions and recommendations for the operation, set-up, use and maintenance of such ride.

(i) The licensee or his or her agent shall contact or call the Emergency Communications Center (911) to report any serious injury sustained on an amusement ride within one hour of the injury. Such notification shall include:

- (1) the name, address and phone number of the injured person;
- (2) a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;
- (3) the cause of the injury, if known; and
- (4) the names, address and phone numbers of any witnesses to the incident.

(j) Whenever a serious injury results from the operation of an amusement ride:

- (1) operation of the ride shall immediately be discontinued;
- (2) operation of the ride shall not be resumed until it has been inspected and the appropriate level qualified inspector has approved resumption of operation; and

(3) the licensee, within thirty (30) days after the injury, shall notify the manufacturer of the ride, if the manufacturer is known and in existence at the time of the injury.

(k) During the period of the license, it shall be the responsibility of the licensee to notify the Superintendent of Central Inspection of the purchase of any additional amusement rides.

(l) Prior to the use of a new amusement ride, the licensee shall submit to the Superintendent of Central Inspection proof of purchase of such amusement ride.

(m) Prior to the use of a used amusement ride, the licensee shall submit to the Superintendent of Central Inspection a copy of an inspection by the appropriate level qualified inspector.

(n) Upon receipt of the proof of purchase or inspection, the Superintendent of Central Inspection will issue an inspection verification for such amusement ride.”

SECTION 11. Section 3.20.067 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Patron’s and Renter’s Responsibility.** (a) Each patron of an amusement ride, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.

(b) Each patron, or parent of a minor patron, of an amusement ride has a duty to:

(1) exercise the judgment and act in the manner of an ordinary prudent person while participating in an amusement ride;

(2) obey all instructions and warnings, written or oral, prior to and during participation in an amusement ride;

(3) refrain from participation in an amusement ride while under the influence of alcohol or drugs;

(4) engage all safety devices that are provided;

(5) refrain from disconnecting or disabling any safety device except at the express direction of the owner's agent or employee;

(6) refrain from extending arms and legs beyond the carrier or seating area except at the express direction of the owner's agent or employee; and

(7) any parent or guardian of a patron shall have a duty to reasonably ensure that the patron complies with all provisions of this section.

(c) Each renter of an amusement ride has a duty to:

(1) operate any and all rented amusement rides in accordance with written and oral instructions regarding the operation, set-up and use of such ride as provided by the Amusement Ride Company;

(2) comply with any and all written or oral safety and emergency procedures as provided by the Amusement Ride Company;

(3) contact or call the Emergency Communications Center (911) to report any serious injury sustained on an amusement ride within one hour of the injury. Such notification shall include:

a. the name, address and phone number of the injured person;



- b. a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;
- c. the cause of the injury, if known; and
- d. the names, address and phone numbers of any witnesses to the incident.

(4) engage all safety devices that are provided for the amusement ride;

(5) ensure that patrons do not disconnect or disable safety devices of the amusement ride;

(6) take necessary steps to reasonably ensure that patrons comply with safety, operation and use requirements of the amusement ride.”

SECTION 12. Section 3.20.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Enforcement and Inspection.** The Superintendent of Central Inspection, or his or her designee, and the Chief of Police, or his or her designee, is authorized to inspect and approve the licensee's premises and amusement rides to ensure compliance with all state laws and the ordinances of the City of Wichita governing public health, safety and welfare.”

SECTION 13. Section 3.20.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Compliance.** All licensees shall comply with all ordinances and regulations of the City of Wichita. A violation of the provisions of this chapter or any ordinances of the City of Wichita shall constitute grounds for revocation or suspension of the license.”

SECTION 14. Section 3.20.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Suspension or revocation of license--Notice of hearing.** (a) Any license issued under this chapter may be suspended for a period not to exceed thirty days or revoked by the Chief of Police or Superintendent of Central Inspection or his or her designee upon five days' written notice, if the licensee:

- (1) has failed to pay the annual license fee;
- (2) violated any provision of this chapter or the provisions of the Kansas Amusement Ride Act, K.S.A. 44-601, *et seq.* and amendments thereto ;
- (3) becomes ineligible for a license;
- (4) the licensee or applicant has knowingly given a false statement as to a material fact submitted to the City Treasurer during the application process;
- (5) has failed to report a serious accident to an officer authorized to enforce the provisions of this chapter;
- (6) has failed to maintain sufficient inspection and maintenance records or;
- (7) has failed to permit the inspection of the premises and/or inspection and maintenance records during business hours by any official authorized to enforce the provisions of this chapter. The specific reasons for the revocation or suspension shall be set forth in the notice.

(b) For the purposes of subsections (a) of this section, written notice shall be deemed sufficient upon personal service or the mailing of the notice to the most recent address on the application of the licensee or applicant on file with the City Treasurer.

(c) For purposes of this Section, the filing of charges or a conviction in a court of law is not required to establish that a licensee or applicant has violated the terms and conditions of this chapter or, the Amusement Ride Act, K.S.A. §44-601 et. seq. A certified copy of conviction from any local or state court for such violation is *prima facie* evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.”

SECTION 15. Section 3.20.095 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Appeal Procedure.** (a) Any applicant or licensee aggrieved by the denial, suspension or revocation of an amusement ride license may file with the City Clerk a written notice of appeal to the City Council within seven (7) business days of the decision by the Chief of Police or Superintendent of Central Inspection or his or her designee. The Notice of Appeal shall specify:

- (1) the name and address of the appellant;
- (2) the date of application;
- (3) the date of the denial, suspension or revocation of the license or application; and
- (4) the factual basis for the appeal.

(b) The notice of appeal shall be accompanied by a fee of \$100.00. Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the suspension or revocation of the license until the matter is heard by the City Council.

(c) The City Council may approve the denial, suspension or revocation, overrule the denial, suspension or revocation or modify the decision of the Chief of Police or Superintendent of Central Inspection.

(d) The Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101. Any such appeal to the District Court shall not stay the denial, revocation or suspension of the license by the City Council. The decision of the City Council shall become effective immediately.

(e) In case of the revocation of any license, no new license shall be issued to such licensee or to any person acting on his or her behalf for a period of two years from the date of the revocation."

SECTION 16. Section 3.20.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Penalty.** (a) With the exception of violations of Section 3.20.067, any person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment for not more than one year, or by both such fine and imprisonment.

(b) Any person who violates the provisions of Section 3.20.067 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

(c) Each day a violation continues shall constitute a separate offense."

SECTION 17. The originals of Sections 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.080, 3.20.090 and 3.20.100 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 18. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of August, 2010.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf, Director of Law

First Published in The Wichita Eagle on \_\_\_\_\_

DELINEATED

07/20/10

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTIONS 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.090 AND 3.20.100, AND CREATING SECTIONS 3.20.015, 3.20.022, 3.20.023, 3.20.065, 3.20.067, AND 3.20.095 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO AMUSEMENT PARKS AND RIDES AND REPEALING THE ORIGINALS OF SECTIONS 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.090 AND 3.20.100 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.20.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Definitions.** 'Amusement park,' ~~for the purpose of this chapter, shall be construed to include and means a permanent installation of~~ inflatables, kiddie riding and rides or amusement devices of the type commonly employed in the operation of carnivals such as merry go rounds, ferris wheels, miniature trains, pony rides, carousels, parachute towers, bungee jumping, reverse bungee jumping, roller coasters, cranes or other lifting devices, when used as part of an amusement ride, inflatable equipment or other devices that do not have rigid structures or frames and which are inflated or otherwise supported by air pressure and other similar devices rides which are permanently attached to the real estate where such rides are operated.

‘Amusement ride’ means any inflatable or mechanical or electrical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement and shall include, but not be limited to:

(1) Rides commonly known as ferris wheels, carousels, parachute towers, bungee jumping, reverse bungee jumping, tunnels of love and roller coasters;

(2) Equipment generally associated with winter activities, such as ski lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways;

(3) Equipment not originally designed to be used as an amusement ride, such as cranes or other lifting devices, when used as part of an amusement ride;

(4) Kiddie rides; and

(5) Temporary amusement rides.

‘Amusement Ride Company’ means in individual, partnership, business, corporation or non-profit entity which:

(1) operates an amusement park; or

(2) operates, leases or rents amusement, kiddie or temporary amusement rides.

‘Carnival’ means an amusement enterprise, including a circus, usually consisting of one or more amusement rides, shows, or concessions which is erected or operated within the City on a temporary basis.

‘Certificate of inspection’ means a certificate, signed and dated by the appropriate, qualified inspector, showing that an amusement ride or temporary amusement ride has satisfactorily passed inspection by such inspector.

‘City’ means the City of Wichita.

‘Chief of Police’ means the Chief of Police of Wichita, Kansas or his or her designee.

‘Inflatable’ means any structure fabricated from flexible material, kept inflated by one or more blowers which rely on air-pressure to maintain their shape and are used by participants to bounce, slide, run, jump or climb. Such term includes, but is not limited to: bounce houses, mazes, obstacle courses, inflatable slides, moon walks, inflatable climbing walls, or other similar types of amusement apparatus.

‘Kiddie ride’ means an amusement ride designed primarily for use by children up to twelve (12) years of age that requires simple reassembly procedures prior to operation.

‘Level I Qualified Inspector’ means a person who holds a current level I or higher certification from the National Association of Amusement Ride Safety Officials (NAARSO).

‘Level II Qualified Inspector’ means a person who holds a current level II or higher certification from the National Association of Amusement Ride Safety Officials (NAARSO).



‘Licensee’ means any person to whom a current license has been issued under this chapter authorizing such person to conduct the business of an Amusement Ride Company.

‘Nondestructive testing’ means the development and application of technical methods such as radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual and leak testing to:

- (1) Examine materials or components in ways that do not impair the future usefulness and serviceability in order to detect, locate, measure and evaluate discontinuities, defects and other imperfections;
- (2) assess integrity, properties and composition; and
- (3) measure geometrical characters.

‘Operator’ means a person employed by or compensated by a licensee who is actually engaged in or directly controlling the operations of an amusement ride.

‘Parent or guardian’ means any parent, guardian or custodian responsible for the control, safety, training or education of a minor or an adult or minor with an impairment in need of a guardian or a conservator, or both, as those terms are defined by K.S.A. 59-3051 and amendments thereto.

‘Patron’ means any individual who is:

- (1) waiting in the immediate vicinity of an amusement ride to get into or on the ride;
- (2) getting on or into an amusement ride;

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- (3) using an amusement ride;
- (4) getting off an amusement ride; or
- (5) leaving an amusement ride and still in the immediate vicinity of the ride.

'Patron' does not include employees, agents or servants of the licensee while engaged in the duties of their employment.

'Person' means any individual, association, partnership, corporation, limited liability company, government or other entity.

'Renter' means a person who rents, leases or enters into a contract for the rental or use of an amusement ride.

'Serious injury' means an injury that results in:

- (1) death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, member, function or system;
- (2) a compound fracture; or
- (3) other significant injury or illness that requires immediate admission and overnight hospitalization and observation by a licensed physician.

'Self-inspection' means that the licensee causes the inspection of an amusement ride by an appropriate level qualified inspector without using the services of a third-party inspector.

'Sign' means any symbol or language reasonably calculated to communicate information to patrons or their parents or guardians, including

placards, prerecorded messages, live public address, stickers, pictures, pictograms, guide books, brochures, videos, verbal information and visual signals.

‘Superintendent of Central Inspection’ means the Superintendent of Central Inspection for the City of Wichita, Kansas or his or her designee.

‘Portable Temporary amusement rides,’ for the purpose of this chapter, shall be construed to include and mean the operation, leasing or renting of merry-go-rounds, Ferris wheels, miniature trains, pony rides, parachute towers, bungee jumping, reverse bungee jumping, roller coasters, cranes or other lifting devices, when used as part of an amusement ride, inflatable equipment or other devices that do not have rigid structures or frames and which are inflated or otherwise supported by air pressure or other such amusement riding devices when portable or not part of an amusement park amusement rides which can be, or are, moved from location to location.

~~Amusement park and portable amusement park rides shall not include:~~

- ~~a. Games, concessions and associated structures;~~
- ~~b. Any single passenger coin-operated ride that: (i) is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator;~~
- ~~c. Non-mechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features;~~

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~~rider-propelled merry-go-rounds, climbers, slides, trampolines and physical fitness devices; and~~

~~d. Portable amusement rides which are used solely for personal use.”~~

SECTION 2. Section 3.20.015 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Exceptions.** The provisions of this chapter shall not apply to:

(a) Games, concessions and associated structures;

(b) Any coin-operated ride that: (i) is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator;

(c) Non-mechanized playground equipment, including, but not limited to: swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines and physical fitness devices;

(d) Amusement rides which are used solely for private residential use. As used in this section, ‘private residential use’ shall mean use by the owner of the ride, his or her family and guests for their personal enjoyment for which no admission fee is charged;

(e) Advertising inflatables or inflatable target games that do not require participants to enter into or climb on;

(f) Boats, air mattresses, or other flotation devices.”

SECTION 3. Section 3.20.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

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**“License required--Fee.** (a) It is unlawful for any person, firm, partnership or corporation to engage in the business ~~and or occupation of operating an amusement park or the operation, leasing or renting of portable amusement rides~~ of an Amusement Ride Company without having first obtained a license therefore from the ~~e~~City ~~t~~Treasurer or his/her designee and paying a license fee as follows:

(1) A non-refundable application fee of twenty-five dollars (\$25.00) shall accompany the license application.

~~(1)~~ (2) Persons engaged in the operation of amusement parks shall pay an annual license fee of six hundred dollars, ~~which shall not be prorated and which shall be paid on May first of each year.~~

~~(2)~~ (3) Persons engaged in the operation of ~~portable~~ temporary amusement rides, when not part of an amusement park as provided for in subsection ~~(1)~~ (2) of this section, shall pay a license fee as follows:

For twenty or more ~~portable~~ temporary amusement rides the annual license fee shall be six hundred dollars, ~~which shall not be prorated and which shall be paid on May first of each year.~~

For persons who own, operate, rent, or lease less than twenty ~~portable~~ temporary amusement rides, the annual license fee shall be thirty dollars per ride, ~~which shall not be prorated and which shall be paid on May first of each year.~~

(b) A license under this section is not transferable to another person or location. A change in ownership shall require the new owner to secure a new license.

(c) Licenses shall be issued for a period of one year.

(d) In addition to the requirements set forth in this chapter, carnivals and circuses are required, when applicable, to obtain a community event license as required by Chapter 3.11 of the Code of the City of Wichita.”

SECTION 4. Section 3.20.022 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“License – Application.** A person desiring to operate an Amusement Ride Company within the City of Wichita shall file with the City Treasurer a written application upon a form provided for that purpose, which must be signed by the applicant or the applicant’s authorized agent. The following information and documentation is required and shall be submitted with the application:

(a) Business name, address and telephone number of the licensee;

(b) A list of the name, manufacturer, type and serial or other identification number (if available) of amusement rides which are used by the licensee, or rented or leased to other persons by the licensee or applicant;

(c) The name, address and telephone number of the owner of the business;

(d) Copies of ride inspections as required by Section 3.20.060 of the Code of the City of Wichita;

(e) Name, address and telephone number of individual inspecting the rides as required by Section 3.20.060 of the Code of the City of Wichita;

(f) Copy of ride inspector's certification;

(g) Proof of liability insurance as required by this chapter;

(h) All applicable fees as required by this chapter."

SECTION 5. Section 3.20.023 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**"Denial of License.** An application for an Amusement Ride Company license or renewal of such license may be denied if:

(a) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;

(b) The application is incomplete or does not contain the information required by this chapter;

(c) The applicant fails to comply with any conditions of approval including, but not limited to:

(1) remittance of all application and licensing fees;

(2) proof of liability insurance required;

(3) proof of annual inspection of rides;

(4) proof of certification of ride inspector;

(5) obtaining all other permits and licenses required by the City

Code.

(d) The applicant, in the last two years, has violated the requirements of this chapter or the provisions of the Kansas Amusement Ride Act, K.S.A. 44-601, et seq. and amendments thereto.

For the purposes of this section, the filing of charges or a conviction in a court of law is not required to establish that a licensee or applicant has previously violated the terms and conditions of this chapter. A certified copy of conviction from any local or state court for any violation contained within subsection (d) is prima facie evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest. Violations of this chapter occurring prior to September 1, 2010, shall not be considered in determining if a license shall be issued or re-issued to an applicant or licensee.

The applicant shall be notified of the denial in writing. The denial shall set forth the specific reasons for the denial of the application.”

SECTION 6. Section 3.20.025 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Installation and Operation regulations of portable temporary amusement rides.** All portable temporary amusement rides shall conform to the following regulations and requirements:

~~HEALTH AND SANITATION. Such establishment shall be operated in full compliance with all requirements relating to health and sanitation as promulgated by the ordinances of the City of Wichita.~~

~~COMPLIANCE WITH BUILDING CODE AND ELECTRICAL CODE.~~



(a) All improvements, ~~riding devices or constructions~~ and temporary amusement rides installed, erected or operated ~~in connection with portable amusement rides~~ shall meet and comply with all requirements and regulations provided in and by the building code as set out in Title 18 of this Code, and the electrical code as set out in Title 19 of this Code.

~~MUSIC-PRODUCING DEVICES.~~ (b) No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with a ~~portable~~ temporary amusement ride after the hour of ten-thirty p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday; and the volume of noise produced and emitted by such mechanical instruments or devices shall be kept in compliance with Chapter 7.41 of the ~~e~~Code of the City of Wichita regulating noise.

~~CLOSING HOURS.~~ (c) No ~~portable~~ temporary amusement device ride shall be operated after the hours of eleven p.m., Sunday through Thursday, or after the hour of twelve p.m., Friday and Saturday.

Exception: The operation times for musical devices and closing times shall not be applicable for the operation of ~~portable~~ temporary amusement rides which are operated completely within an enclosed building.”

SECTION 7. Section 3.20.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Installation and operation regulations of amusement parks.** All amusement parks ~~installed and operated~~ shall conform to the following regulations and requirements:

~~ZONING RESTRICTIONS.~~ (a) No amusement park shall be installed or operated in use districts other than ~~GC, CBD, LI or GI of the~~ those districts where allowed by the Wichita-Sedgwick County ~~Unified Zoning~~ eCode, relating to zoning within the corporate city limits of the eCity of Wichita.

~~FENCES.~~ (b) Unless other fence screening is required by the Wichita-Sedgwick County ~~Unified Zoning eCode~~, the entire area within which such amusement park is installed and operated shall be enclosed by a wire fence of a minimum height of five feet or other mode of screening approved by the Superintendent of Central Inspection.

~~TOILET FACILITIES.~~ (c) Adequate toilet facilities shall be provided in connection with such amusement park, ~~the same to~~ and shall be constructed and maintained in accordance with the ordinances of the City of Wichita.

~~HEALTH AND SANITATION.~~ (d) Such ~~establishment~~ amusement parks shall be operated in full compliance with all requirements ~~relating to~~ of the health and sanitation ~~as promulgated by the~~ ordinances of the eCity ~~and the department of environmental health~~.

~~COMPLIANCE WITH BUILDING CODE AND ELECTRICAL CODE.~~

(e) All improvements, ~~riding—devices~~ amusement rides or ~~constructions~~ buildings installed, erected or operated in connection with amusement parks shall meet and comply with all requirements and regulations provided in and by the building code as set out in Title 18 of this Code, and the electrical code as set out in Title 19 of this Code.

~~MUSIC PRODUCING DEVICES.~~ (f) No mechanical piano, organ, phonograph or other instrument or device by which music is produced or reproduced shall be played or operated in connection with an amusement park, or any ~~riding—device~~ amusement ride after the hour of ten-thirty p.m., Sunday through Thursday, or after the hour of eleven p.m., Friday and Saturday; and the volume of noise produced and emitted by such mechanical instruments or devices shall be kept in compliance with Chapter 7.41 of the code of the City of Wichita regulating noise.

~~CLOSING HOURS.~~ (g) Amusement parks shall close and cease operations promptly at 12:00 midnight.

No ~~riding—device~~ amusement ride shall be operated after the hours of eleven p.m., Sunday through Thursday, or after the hour of twelve p.m., Friday and Saturday.

Exception: The operation times for musical devices and closing times shall not be applicable for the operation of amusement park attractions and ~~portable~~ amusement rides which are operated completely within an enclosed building.”

SECTION 8. Section 3.20.040 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

**“Liability insurance.** No person, firm, partnership, non-profit organization, or corporation within the corporate limits of the eCity shall be licensed to engage in the business or occupation of operating an amusement park or the operation, renting or leasing of portable amusement rides as an Amusement Ride Company until a certificate of commercial general liability insurance with coverage of not less than one million dollars per occurrence is deposited and filed with the eCity ~~†~~Treasurer or his or her designee. The requirement of providing proof of insurance shall not apply if the owner of such amusement ride or park is the state, a ~~not for profit organization~~ City or any subdivision of the State of Kansas.

The City will only accept coverage from an insurance carrier who offers proof that it: ~~a. Is authorized, legally recognized or is listed pursuant to K.S.A. 40-246e and amendments thereto,~~ to do business in the State of Kansas;

~~b. Carries a Best's policyholder rating of A minus or better; and~~

~~c. Carries at least a Class VIII financial rating or is a company mutually agreed upon by the city and the licensee.”~~

SECTION 9. Section 3.20.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Inspections.** (a) The licensee shall, as part of the license application or renewal, provide the eCity ~~†~~Treasurer or his or her designee with a certificate of

inspection by the appropriate, qualified inspector for the operation of any amusement ~~park or portable amusement~~ ride.

Each certificate shall be in a format approved by the Superintendent of Central Inspection and shall include, at a minimum, the following information:

- a. 1. State t~~The date of inspection and the items inspected, including, but not limited to, any and all rides, attractions, structures, related utilities, and support equipment and supplies;~~
- b. ~~Specifically state any and all known defects or dangerous conditions, including defects or conditions which could be reasonably discovered pursuant to an inspection, concerning any and all rides, attractions, structures, related utilities, and support equipment and supplies.~~
2. Name, manufacturer, type and serial or other identification number, if applicable, of the amusement ride inspected;
3. The items inspected including, but not limited to, any and all rides, attractions, structures, related utilities, support equipment and supplies;
4. The printed name, address, certification level, date of certification, and signature of the qualified inspector;
5. Specify any and all known defects or dangerous conditions, including defects or conditions which could be reasonably discovered, pursuant to an inspection, concerning any and all rides, attractions, structures, related utilities, support equipment and supplies;

6. The results of the nondestructive testing of the amusement ride which has been conducted in accordance with the recommendation of the manufacturer of the amusement ride and in conformance with standards at least equivalent to the current standards of the American Society for Testing and Materials.

(b) (1) ~~Such inspections for inflatables or kiddie rides~~ shall be performed by a Level I qualified inspector ~~certified NAARSO Level 1 certified AIMS or an amusement ride inspector certified by the State of Kansas or any other state, within three months of the date of submission of an application for a new amusement park license. Thereafter, for the renewal of licenses, a valid inspection shall be an inspection performed by the Level 1 certified NAARSO, Level 1 certified AIMS or an amusement ride inspector certified by the State of Kansas or any other state during the first quarter of the calendar year during which the license will be renewed. Further, the existence of a defective or otherwise dangerous condition may be sufficient reason to deny the license requested.~~

(2) Inspections for amusement rides, other than inflatables or kiddie rides shall be performed by a Level II qualified inspector.

(c) No amusement ride shall be operated in the City unless such ride has a valid certificate of inspection.

(1) Amusement Park rides erected at a permanent location in the City shall be inspected by a Level II qualified inspector at least once every twelve (12) months.

(2) Inflatable or kiddie rides shall be inspected by a Level I qualified inspector at least once every twelve (12) months.

(3) Temporary amusement rides, with the exception of kiddie rides and inflatables, shall have been self-inspected by a Level II qualified inspector within the preceding thirty (30) days prior to the ride being erected.

(4) The certificate of inspection required by this subsection shall be signed and dated by the appropriate level qualified inspector. A copy of such inspection shall be submitted for review by the Superintendent of Central Inspection.

(5) An inspection verification certificate, issued by the City, shall be posted in plain view on or near the amusement ride in a location where it can easily be seen.”

SECTION 10. Section 3.20.065 of the Code of the City of Wichita, Kansas, is created to read as follows:

**“Operating Requirements.** (a) The licensee shall retain, at all times, current maintenance and inspection records for each ride. These records shall be retained in such a way that segregates the records by ride. Such records shall be available to any officer authorized to enforce the provisions of this chapter and any person contracting with the licensee for the amusement ride’s operation.

(b) No amusement ride shall be operated in the City unless nondestructive testing of the ride has been conducted in accordance with the recommendations of the manufacturer of the ride and in conformance with standards at least equivalent to the current standard of the American Society for Testing and Materials.

(c) Operators of amusement rides must have satisfactorily completed training that includes, the following:

(1) instruction on operating procedures for the ride, the specific duties of the operator, general safety procedures and emergency procedures;

(2) demonstration of physical operation of the ride;

(3) supervised observation of the operator's physical operation of the ride;

(4) the manufacturer's recommendations for operation, set-up, use and maintenance of the amusement ride.

(d) Such training shall occur at least once every twelve months and may be conducted by the licensee or his or her designee.

(e) At the time of renting or leasing a temporary amusement ride, the licensee shall provide, in writing, to the individual renting the ride, the following:

(1) Instructions on operating procedures for the ride;

(2) General safety and emergency procedures;

(3) Name, license number, address and phone number of the amusement ride company;



(4) The name, manufacturer, serial number or other identification number of the amusement ride;

(5) Date of last inspection;

(6) Copy of inspection verification for the amusement ride issued by the City of Wichita.

(f) No amusement ride shall be operated in the City unless the name of each operator trained to operate the ride and the certificate of each such operator's satisfactory completion of training, signed and dated by the trainer, is available to any official designated to enforce this chapter and any person contracting with the owner for the amusement ride's operation on the premises where the amusement ride is operated, during the hours of operation of the ride.

(g) No amusement ride shall be operated in the City unless there is posted in plain view on or near the ride, in a location where they can be easily read, all safety instructions for the ride.

(h) All amusement rides shall be operated in accordance with the manufacturer's instructions and recommendations for the operation, set-up, use and maintenance of such ride.

(i) The licensee or his or her agent shall contact or call the Emergency Communications Center (911) to report any serious injury sustained on an amusement ride within one hour of the injury. Such notification shall include:

(1) the name, address and phone number of the injured person;

(2) a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;

(3) the cause of the injury, if known; and

(4) the names, address and phone numbers of any witnesses to the incident.

(j) Whenever a serious injury results from the operation of an amusement ride:

(1) operation of the ride shall immediately be discontinued;

(2) operation of the ride shall not be resumed until it has been inspected and the appropriate level qualified inspector has approved resumption of operation; and

(3) the licensee, within thirty (30) days after the injury, shall notify the manufacturer of the ride, if the manufacturer is known and in existence at the time of the injury.

(k) During the period of the license, it shall be the responsibility of the licensee to notify the Superintendent of Central Inspection of the purchase of any additional amusement rides.

(l) Prior to the use of a new amusement ride, the licensee shall submit to the Superintendent of Central Inspection proof of purchase of such amusement ride.

(m) Prior to the use of a used amusement ride, the licensee shall submit to the Superintendent of Central Inspection a copy of an inspection by the appropriate level qualified inspector.

(n) Upon receipt of the proof of purchase or inspection, the Superintendent of Central Inspection will issue an inspection verification for such amusement ride.”

SECTION 11. Section 3.20.067 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Patron’s and Renter’s Responsibility.** (a) Each patron of an amusement ride, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.

(b) Each patron, or parent of a minor patron, of an amusement ride has a duty to:

(1) exercise the judgment and act in the manner of an ordinary prudent person while participating in an amusement ride;

(2) obey all instructions and warnings, written or oral, prior to and during participation in an amusement ride;

(3) refrain from participation in an amusement ride while under the influence of alcohol or drugs;

(4) engage all safety devices that are provided;

(5) refrain from disconnecting or disabling any safety device except at the express direction of the owner’s agent or employee;

(6) refrain from extending arms and legs beyond the carrier or seating area except at the express direction of the owner's agent or employee; and

(7) any parent or guardian of a patron shall have a duty to reasonably ensure that the patron complies with all provisions of this section.

(c) Each renter of an amusement ride has a duty to:

(1) operate any and all rented amusement rides in accordance with written and oral instructions regarding the operation, set-up and use of such ride as provided by the Amusement Ride Company;

(2) comply with any and all written or oral safety and emergency procedures as provided by the Amusement Ride Company;

(3) contact or call the Emergency Communications Center (911) to report any serious injury sustained on an amusement ride within one hour of the injury. Such notification shall include:

a. the name, address and phone number of the injured person;

b. a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;

c. the cause of the injury, if known; and

d. the names, address and phone numbers of any witnesses to the incident.

(4) engage all safety devices that are provided for the amusement ride;

(5) ensure that patrons do not disconnect or disable safety devices of the amusement ride;

(6) take necessary steps to reasonably ensure that patrons comply with safety, operation and use requirements of the amusement ride.”

SECTION 12. Section 3.20.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Enforcement and Inspection.** The ~~s~~Superintendent of ~~e~~Central ~~i~~nspection, or his/~~or~~ her designee, and the ~~director of environmental health~~ Chief of Police, or his/~~or~~ or her designee, is authorized to inspect and approve the licensee's premises and amusement ~~devices~~ rides to ensure compliance with all state ~~and federal~~ laws and the ordinances of the City of Wichita governing public health, safety and welfare.”

SECTION 13. Section 3.20.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Compliance.** All licensees shall comply with all ordinances and regulations of the City of Wichita. A violation of the provisions of this chapter or any ordinances of the City of Wichita shall constitute grounds for revocation or suspension of the license ~~as provided.~~”

SECTION 14. Section 3.20.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Suspension or revocation of license--Notice of hearing.** (a) Any license issued under this chapter may be suspended for a period not to exceed thirty days or revoked ~~for a period not to exceed thirty days~~ by the ~~e~~Chief of ~~p~~Police or Superintendent of Central Inspection or ~~his/her~~ his or her designee upon five days' written notice, if the licensee:

- (1) has failed to pay the annual license fee;
- (2) violated any provision of this chapter or the provisions of the Kansas Amusement Ride Act, K.S.A. 44-601, et seq. and amendments thereto;
- (3) becomes ineligible for a license; ~~or~~
- (4) ~~said the~~ licensee or applicant has knowingly given a false statement as to a material fact submitted to the ~~e~~City ~~†~~Treasurer during the application process;
- (5) has failed to report a serious accident to an officer authorized to enforce the provisions of this chapter;
- (6) has failed to maintain sufficient inspection and maintenance records or;
- (7) has failed to permit the inspection of the premises and/or inspection and maintenance records during business hours by any official authorized to enforce the provisions of this chapter . The ~~cause~~ specific

reasons for ~~such~~ the revocation or suspension shall be set forth in the notice, and the licensee may appeal such an order of suspension in writing to the city council within seven days from the date of such order.

~~(b) The city council, upon five days' written notice to the licensee, may permanently revoke or cause to be suspended such license for any of the reasons enumerated in subsection (a) of this section. Provided, that if any of the grounds for revocation herein enumerated are violated by an employee, manager, operator or agent, then in the absence of proof of knowledge by the licensee, there shall be no revocation, but there may be a suspension of not more than thirty days. In the event any licensee is subjected to more than two such suspensions in any twelve month period, his or her license may be revoked on the third such violation.~~

~~(c) An appeal taken from an order of suspension or revocation shall not suspend the order of revocation or suspension during the pendency of such appeal. In case of the revocation of any license, no new license shall be issued to such licensee or to any person acting for or on his or her behalf for a period of three years.~~

~~(d) (b)~~ For the purposes of subsections (a) ~~and (b)~~ of this section, written notice shall be deemed sufficient upon personal service or the mailing of the notice to the most recent address on the application of the licensee or applicant on file ~~in~~ with the ~~office of the eCity~~ Treasurer.

(c) For purposes of this Section, the filing of charges or a conviction in a court of law is not required to establish that a licensee or applicant has violated

the terms and conditions of this chapter or, the Amusement Ride Act, K.S.A. §44-601 et. seq. A certified copy of conviction from any local or state court for such violation is *prima facie* evidence of a violation. A conviction shall include being placed on diversion or being adjudged guilty upon entering a plea of no contest.

~~(e) Within thirty days after the order revoking or suspending any license, the licensee may appeal from such order to the district court of the county in the manner as provided by law; provided that any appeal taken from an order revoking any such license shall not suspend the order of revocation during the pendency of such appeal.”~~

SECTION 15. Section 3.20.095 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Appeal Procedure.** (a) Any applicant or licensee aggrieved by the denial, suspension or revocation of an amusement ride license may file with the City Clerk a written notice of appeal to the City Council within seven (7) business days of the decision by the Chief of Police or Superintendent of Central Inspection or his or her designee. The Notice of Appeal shall specify:

- (1) the name and address of the appellant;
- (2) the date of application;
- (3) the date of the denial, suspension or revocation of the license or application; and
- (4) the factual basis for the appeal.

(b) The notice of appeal shall be accompanied by a fee of \$100.00.

Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall



schedule a hearing before the City Council, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the suspension or revocation of the license until the matter is heard by the City Council.

(c) The City Council may approve the denial, suspension or revocation, overrule the denial, suspension or revocation or modify the decision of the Chief of Police or Superintendent of Central Inspection.

(d) The Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101. Any such appeal to the District Court shall not stay the denial, revocation or suspension of the license by the City Council. The decision of the City Council shall become effective immediately.

(e) In case of the revocation of any license, no new license shall be issued to such licensee or to any person acting on his or her behalf for a period of two years from the date of the revocation."

SECTION 16. Section 3.20.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Penalty.** (a) With the exception of violations of Section 3.20.067, Any person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed ~~five hundred~~ one thousand dollars (\$1,000.00) or by imprisonment for not more than ~~ninety days~~ one year, or by both such fine and imprisonment.

(b) Any person who violates the provisions of Section 3.20.067 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

(c) Each day a violation continues shall constitute a separate offense.”

SECTION 17. The originals of Sections 3.20.010, 3.20.020, 3.20.025, 3.20.030, 3.20.040, 3.20.060, 3.20.070, 3.20.080, 3.20.090 and 3.20.100 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 18. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law

City of Wichita  
City Council Meeting  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing and Tax Exemption Request (Leading Technology Composites, Inc.)  
(District IV)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Close the Public Hearing and place Ordinance on first reading.

**Background:** Leading Technology Composites, Inc. (“LTC”) was founded in 1993 to manufacture composite based materials and products for aerospace, military and automotive applications. After having submitted a letter of intent to the City, the company recently expanded its existing facility by 25,000 square feet. LTC is now requesting approval of an exemption under the Economic Development Exemption (EDX) Program on the construction of the new manufacturing facility.

**Analysis:** LTC is located at 2626 West May in Southwest Wichita. The company has designed the facility to maximize production capacity and close tolerance manufacturing requirements. LTC produces parts for vehicle systems and personal body armor plates for the U.S military. The company also produces structural assemblies for aerospace manufacturers and safety products for commercial automotive clients. LTC exports 95% of its products out of Kansas; customers include BAE Systems, Lockheed Martin, Bombardier and Ford.

LTC has constructed a 25,000 square foot expansion of the current facility at a cost of approximately \$1,750,000. The expansion also included investment in machinery and equipment totaling approximately \$3,400,000.

LTC currently has 79 employees in Wichita; the company plans to add at least 37 jobs to support the new facility over the next five years, for a total local employment of 116 by 2015. The average wage for the new jobs will be \$34,442 per year. Under the Economic Development Incentive Policy, LTC is eligible for a 99.7%, 5+5-year property tax abatement based on the combined investment and job creation commitment. Staff is recommending approval of 100% abatement.

**Financial Considerations:** Based on the 2009 mill levy, the estimated tax value of exempted property for the first full year is approximately \$52,731. The value of the 100% real property tax exemption as applicable to taxing jurisdictions is:

City	\$ 14,082	State	\$ 657
County	\$ 13,085	USD 259	\$ 24,906

Wichita State University’s Center for Economic Development and Business Research performed a cost-benefit analysis indicating benefit-to-cost ratios, which are as follows:

City of Wichita	1.98 to one
City of Wichita – General Fund	1.82 to one
City of Wichita – Debt Service	2.25 to one

Sedgwick County	1.68 to one
USD 259	1.28 to one
State of Kansas	6.92 to one

**Goal Impact:** Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

**Legal Considerations:** The Law Department has approved the Ordinance and Economic Development Incentive Agreement as to form.

**Recommendations/Actions:** It is recommended that City Council close the public hearing, and approve first reading of the Ordinance granting Leading Technology Composites a 100% tax exemption on the identified real property improvements for a five year term, plus a 100% tax exemption for a second five-year term, subject to City Council review.

**Attachments:** Ordinance, Economic Development Incentive Agreement

# Economic Development Incentive Agreement

**THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT** (the “Agreement”) is made and entered into on this \_\_\_\_ day of August, 2010, by and between the City of Wichita, Kansas, hereinafter referred to as the “City,” and Leading Technology Composites, Inc. hereinafter referred to as the “Company.”

**WHEREAS**, the Company currently operates a facility in Wichita, Kansas, for manufacturing of oils, greases, and other fluids, and, as of August 1, 2010 has completed an expansion by constructing and equipping a new manufacturing facility and acquiring and modifying existing structures at that facility; and

**WHEREAS**, both the City and the Company desire for the Company to continue operating its business in Wichita, Kansas; and

**WHEREAS**, the City desires to increase employment opportunities for the citizens of Wichita, Kansas, and to further the other goals advanced by its economic development incentive policy; and

**WHEREAS**, the Company warrants that it is capable of, and desires to, increase the number of employment positions at its Wichita, Kansas facility; and

**WHEREAS**, the City has designed an economic development incentive program to accomplish its goal of increasing employment opportunities in Wichita, Kansas; and

**WHEREAS**, the purpose of this Agreement is to state the terms and conditions under which the City will cooperate in furnishing said economic development incentives.

**NOW, THEREFORE**, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **THE COMPANY.** The Company agrees (to the extent not already hitherto performed) that it shall do the following:
  - A. Between December 14, 2010 and August 1, 2010, the Company will have completed the construction of a new facility at its manufacturing facility, located at 2626 West May, Wichita, Kansas, at a cost of \$1,752,428, to be used exclusively for the purposes of manufacturing articles of commerce;
  - B. Maintain, throughout the period from the date of this Agreement to August 1, 2015, employment of not less than seventy nine (79) employees at the existing manufacturing facility;

- C. On or prior to August 1, 2015, the Company will add an additional thirty-seven (37) new jobs at the new manufacturing facility, and thereafter, maintain employment of not less than one hundred sixteen (116) employees at combined manufacturing facility, through at least December 31, 2019;
- D. During the entire term of this Agreement, the Company will continuously maintain the average wage paid to its employees at a level (1) equal to or greater than the average wage paid by businesses in the Wichita Metropolitan Statistical Area with the Company's NAICS classification, or alternatively, (2) greater than the average wage for all jobs in the Wichita Metropolitan Statistical Area excluding wages paid by businesses classified in NAICS Sector 326;
- E. During the entire term of this Agreement, the Company will meet any Equal Employment Opportunity/Affirmative Action goals set forth in its periodic filings with the City, and will annually file its Equal Employment Opportunity/Affirmative Action Plan with the City;
- F. During the entire term of this Agreement, the Company will timely pay all *ad valorem* property taxes levied on its real or personal property within Sedgwick County, Kansas;
- G. During the entire term of this Agreement, the Company will ensure that it does not discriminate or permit discrimination against any person on the basis of race, color, national origin or ancestry, religion, sex, age, disability or marital status in its operations or services, and the Company will comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, *et seq.*; the Code of the City of Wichita Section 2.12.950; and, any laws, amendments or regulations promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity;
- H. During the entire term of this Agreement, the Company will comply with all applicable governmental laws, rules and regulations; and,
- I. During the entire term of this Agreement, the Company will cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with conditions, including any annual reports required of the Company and any inspection of the Company's premises or interviews with the Company's staff.

2. **EFFECT OF COMPANY'S BREACH; REMEDIES.** The Company acknowledges that in the event of its noncompliance with any of its obligations or agreements under the foregoing Section 1, the City will not have received the social and economic development benefits expected in connection with its entry into this Agreement and its furnishing of the economic development incentives provided for hereunder, and the resulting loss to the City will be difficult to measure. In such event, Company shall be required to pay to the City, as liquidated damages, or as a payment in lieu of tax, an amount equal to the *ad valorem* taxes that would theretofore have been payable but for the tax exemption referred to in Section 3 of this Agreement, and the City shall be entitled to take action to cancel and revoke such exemption for any subsequent period. No delay or omission by the City to enforce any of its rights as provided for herein shall impair such right, nor shall any such delay or omission be construed to be a waiver of such right.
3. **THE CITY.** So long as the Company meets and performs its obligations under this Agreement, it is the City's intention that the 25,000 square foot building constructed by the Company pursuant to Section 1.A., above, shall be entitled to an 100% exemption from *ad valorem* taxation for a period of five (5) calendar years, commencing January 1, 2011, and provided proper application is made therefor. It is the City's further intention that the building expansion shall be entitled to a 100% exemption from *ad valorem* taxation for an additional period of five years from January 1, 2016 to December 31, 2020, subject to the approval, in 2015, of the then current governing body. The City agrees that, during the term of this Agreement, and so long as the Company continues to meet and perform all of its obligations under this Agreement, the City will reasonably cooperate with the Company's efforts to perfect the intended exemption before the Kansas Court of Tax Appeals, and to make all necessary annual filings required to maintain such *ad valorem* tax exemption in full force and effect during the term of this Agreement, in accordance with K.S.A. 79-210 *et seq.*
4. **TERM.** This Agreement shall commence on the date first written above, and shall end on December 31, 2020.
5. **INCORPORATION OF APPENDIX.** Appendix A (Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements) is attached hereto and made a part hereof as if fully set out herein.
6. **ENTIRE AGREEMENT.** This Agreement and any Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In

the event of a conflict between the terms of this Agreement and the terms contained in an Appendix, Statement of Work or other attachment, the terms of this Agreement will control.

7. **NOTIFICATION.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

City: Office of Economic Development  
Attn: Economic Development Administrator  
455 North Main, 13<sup>th</sup> Floor  
Wichita, Kansas 67202

and

Department of Law  
Attn: City Attorney  
455 North Main, 13<sup>th</sup> Floor  
Wichita, Kansas 67202

Company: Leading Technology Composites, Inc.  
2626 W May  
Wichita, KS 67213

8. **AUTHORITY.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

ATTEST:

\_\_\_\_\_  
Carl Brewer, Mayor

\_\_\_\_\_  
Karen Sublett, City Clerk

LEADING TECHNOLOGY  
COMPOSITES, INC.

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf  
Director of Law

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



## **APPENDIX A**

### **REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
  4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
  5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

\_\_\_\_FIRST PUBLISHED IN THE WICHITA EAGLE ON AUGUST 13, 2010\_\_\_\_

ORDINANCE NO. 48-790

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF LEADING TECHNOLOGY COMPOSITES, INC., SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Leading Technology Composites, Inc., requests an ad valorem tax exemption on a proposed expansion project of 100% for a five-plus-five year term on the construction of a new building; and

WHEREAS, Leading Technology Composites, Inc., has operated within the City for eighty years as a manufacturer of oils, greases, and other fluids for the maintenance and operation of machinery; and

WHEREAS, Leading Technology Composites, Inc., proposes a \$1,752,428 expansion by the construction of a new building expansion to be located at 2626 West May in southwest Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by Leading Technology Composites, Inc., has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on August 3, 2010; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. Leading Technology Composites, Inc. is an existing business located in Wichita, Kansas, and intends to expand its business by construction of a building expansion.

2. The construction of the expansion for which exemption is given occurred after December 14, 2006. No exemption will be given for construction which occurred before that date.

3. Such construction is to be used exclusively for manufacturing articles of commerce.

4. By such expansion, Leading Technology Composites, Inc. will create new employment for 37 employees within five years after the start of the project.

5. Tax exemption will be given only for the construction of a building expansion.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS,

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by Leading Technology Composites, Inc. is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing articles of commerce.

2. Leading Technology Composites, Inc. is hereby granted an ad valorem tax exemption of 100% for a five-year term on the construction of a building expansion and 100% for a second five years, subject to approval by the then current governing body, located within the Wichita City limits at 2626 West May in southwest Wichita, at an estimated cost of \$1,752,428. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and Leading Technology Composites, Inc. may be required to repay amounts previously abated), in the event of any failure by Leading Technology Composites, Inc., to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and Leading Technology Composites, Inc. is hereby approved.

4. The Office of Urban Development shall be responsible for monitoring the performance of Leading Technology Composites, Inc. and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in Leading

Technology Composites, Inc.'s written request for ad valorem tax exemptions as presented to the City Council and to administrative staff and dated July 1, 2010 and as stated in Leading Technology Composites, Inc.'s annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Leading Technology Composites, Inc. no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which Leading Technology Composites, Inc. has executed with the City.

7. The City Council may, at its discretion, require Leading Technology Composites, Inc. to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which Leading Technology Composites, Inc. has executed with the City.

8. Upon finding that Leading Technology Composites, Inc. has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on Leading Technology Composites, Inc.'s expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this \_\_\_\_ day of August, 2010.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf, City Attorney

City of Wichita  
City Council Meeting  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Petition to approve a Community Improvement District for Maize 54 Development (District V)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

.....

**Recommendation:** Accept the petition and adopt the resolution setting a public hearing for consideration of the establishment of a Community Improvement District.

**Background:** In 2009, the Kansas Legislature enacted, and the Governor signed into law, the Community Improvement District Act (CID Act), which allows property owners to petition cities or counties to create districts in which certain special taxes are imposed and the resulting revenue used to fund certain public and private improvements and the payment of certain ongoing operating costs, within the districts. In April of 2010 the City Council adopted a policy which addresses how the City will utilize the tool and outlined the approval process.

Developers Jay Maxwell and Maize 54 LLC have submitted a petition for a Community Improvement District (CID) for a development on the northeast corner of the intersection of Kellogg Drive and Maize Road, called the Bowllagio. The petition signed by owners representing 100% of proposed CID is submitted for City Council approval.

**Analysis:** CID projects may be funded by either special assessment taxes on the real property within the CID or by a special retail sales tax of up to two percent (2%) on all taxable retail sales within the district, or both. Under the CID Act, cities and counties may use the CID tax revenues to repay bonds, either full faith and credit (general obligation) bonds or special obligation (revenue) bonds, issued to finance eligible improvements; or the CID revenue may be passed through to developers to fund the cost of the improvements, or qualified operating costs, on a pay-as-you-go basis. The City CID Policy encourages the use of pay-as-you-go financing and allows the use of special obligation bonds, but does not permit the use of general obligation bonds. The maximum term of a CID is 22 years.

The developers plan a mixed-use entertainment district which includes the family entertainment anchor, the “Bowllagio”, an entertainment center with bowling as the primary attraction, coupled with restaurant and bar operations and state-of-the-art gaming attractions. The CID financing is planned to be used for land acquisition and infrastructure construction within the district, and any other costs allowed by law, including eligible operating costs. The petitioned maximum amount of CID financing is \$75,000,000, which includes \$22,000,000 in operating costs. The petition proposes imposition of a two percent 2% CID sales tax, which will be collected for up to 22 years and paid to the developer on a pay-as-you-go basis.

Although the Act allows for CID petitions that only use sales tax revenue to be signed by only 55% of the owners within a district, the City’s CID Policy requires a 100% petition and a public hearing for the proposed district. The proposed district identified in the petition includes all land currently owned by Maize 54 LLC. The developer plans to add land to the CID, by petition, as additional project sites are

acquired.

To establish a CID, the City Council must first adopt a resolution which states that the City Council is considering the establishment of the CID and sets a date for a public hearing on the matter. The resolution must then be published at least once each week for two consecutive weeks and be sent by certified mail to all owners of land within the proposed CID. Given this process, the earliest date a public hearing may be held for this project would be September 14, 2010. After closing the public hearing, the City Council may adopt an ordinance establishing the district.

**Financial Considerations:** The cost of mailing the Resolution to all owners of property located within the proposed district will be charged to the Economic Development Fund and will be repaid with administrative fees collected from the district. Jay Maxwell has paid the \$5,000 non-refundable application fee, as required by the City's CID Policy.

The developer has requested pay-as-you-go financing. The City will not issue debt for this. Proceeds will be held by the City and disbursed pursuant to a development agreement. The City will withhold five percent (5%) of the CID revenues distributed by the State, after giving credit for the application fee, and disperse the balance of the CID proceeds to the developer until the maximum amount identified in the petition has been reimbursed or the 22-year term has expired, whichever is earlier.

**Goal Impact:** Economic Vitality and Affordable Living and Quality of Life. This project facilitates commercial development in a fast growing area of the City. Business prospects and workers seeking to relocate are attracted to a city that offers convenient shopping options.

**Legal Considerations:** State Law allows Community Improvement Districts to be established by Ordinance following a public hearing. The form of the petition and resolution has been approved by the Law Department.

**Recommendation/Action:** It is recommended that the City Council accept the petition and adopt the resolution setting a public hearing on September 14, 2010 for consideration of the establishment of a Community Improvement District.

**Attachments:** Resolution and petition



Published in the Wichita Eagle on August 27 and September 3, 2010

RESOLUTION NO. 10-206

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, PROVIDING FOR NOTICE OF A PUBLIC HEARING CONCERNING ADVISABILITY OF THE CREATION OF A COMMUNITY IMPROVEMENT DISTRICT WITHIN THE CITY AND THE PROPOSED LEVY OF A COMMUNITY IMPROVEMENT DISTRICT SALES TAX PURSUANT TO K.S.A. 12-6a26 *ET SEQ.*, AS MAY BE AMENDED.

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "Act"), the City of Wichita, Kansas (the "City"), is authorized to create a community improvement district as provided in the Act to provide for the acquisition, improvement, construction, demolition, removal, renovation, reconstruction, restoration, replacement, repair, furnishing and equipping buildings, structures, facilities, sidewalks, roads, parking lots, traffic signs and signals, utilities, pedestrian amenities, drainage, water, storm and sewer systems, underground gas, heating and electrical services and extensions, water mains and extensions, site improvements, street lights, lighting, street light fixtures, benches, awnings, canopies, walls, trees, landscapes and other cultural amenities (collectively, the "CID Projects" or each a "CID Project"); and

WHEREAS, upon proper petition, the Act further authorizes the City, in order to pay the costs of any project which is a CID Project, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within a community improvement district in any increment of .10% or .25% not to exceed 2% (a "CID Sales Tax") and to reimburse the costs of the such project pursuant to pay-as-you-go financing and/or the issuance of special obligation notes and bonds payable from such community improvement district sales tax; and

WHEREAS, a petition (the "Petition") has been filed with the City Clerk of the City proposing the creation of a community improvement district pursuant to the Act (the Maize 54 CID"), the completion of a project relating thereto as more particularly described on Exhibit A attached hereto (the "Project"), and the imposition of a CID Sales Tax in order to pay the costs of the Project; and

WHEREAS, the Petition was signed by the owners of all of the land area within the proposed Maize 54 CID; and

WHEREAS, the proposed Maize 54 CID is located near the northeast corner of the intersection of Kellogg Street and Maize Road within the City; and

WHEREAS, the petition proposes that the City impose a two percent (2%) CID Sales Tax within the Maize 54 CID which may be levied by ordinance following the hearing; and

WHEREAS, the Act provides that prior to creating any community improvement district, the City shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and authorizing a CID Project therein and the proposed CID Sales Tax within such district which may be levied by ordinance and shall give notice of said public hearing in accordance with the Act;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

1. Notice is hereby given that a public hearing to consider the advisability of the creation by the City of the Maize 54 CID and the imposition by the City of a two percent (2%) CID Sales Tax within the Maize 54 shall be held on September 14, 2010, beginning at 9:00 a.m. or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

2. The general nature of the proposed Project to be constructed within the proposed Maize 54 CID is set forth on Exhibit A attached hereto and incorporated by reference herein.

3. The estimated cost of the Project within the proposed Maize 54 CID is \$95,000,000.

4. The Project within the proposed Maize 54 CID will be financed on a pay-as-you-go basis from revenues received from the imposition of a two percent (2%) CID Sales Tax up to a maximum amount of \$75,000,000 within the proposed Maize 54 CID.

5. A legal description of the proposed Maize 54 CID is set forth in Exhibit B attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the proposed Maize 54 CID is attached hereto as Exhibit C and incorporated herein by reference.

6. The City Clerk shall give notice of the public hearing in accordance with the provisions of the Act by publishing this resolution at least once each week for two consecutive weeks in the newspaper and sending this resolution by certified mail to all owners. The second publication of this resolution shall occur at least seven days prior to the date of hearing and the certified mailed notice shall be sent at least ten days prior to the date of hearing.

ADOPTED by the Governing Body this 3<sup>rd</sup> day of August, 2010.

APPROVED and SIGNED by the Mayor the 3<sup>rd</sup> day of August, 2010.

CITY OF WICHITA, KANSAS

By: \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, City Attorney

## EXHIBIT A

### PROJECT

The general nature of the proposed projects (the “Projects”) is to construct a is a mixed-use commercial district with an estimated overall cost of \$95 million over an estimated 5-year development period and to finance the construction, maintenance, and procurement of certain improvements, costs, and services within the District, including, but not limited to: land acquisition, infrastructure related items, streets, sidewalks, parking lots and facilities, buildings, facilities, tenant improvements, water management and drainage related items, landscaping, lighting, art, water features and other cultural amenities, ongoing maintenance of the District, marketing, advertisement and economic development, cleaning and maintenance, and the City’s administrative costs in establishing and maintaining the District, and any other items permitted to be financed within the District under the Act.

## EXHIBIT B

### LEGAL DESCRIPTION

#### TRACT A

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30" E along the common line as extended East, 200 feet; thence S01°18'15"E, 275 feet; thence N88°20'30" E, 399.5 feet; thence N01°18'15"W, 275 feet; thence N88°20'30"E, 205.96 feet; thence S14°10'35"E, 401.95 feet to a point 40 feet North of the North line of U.S. 54 Highway as deeded on Film 2144, Page 1847; thence N74°04'48"E parallel with and 40 feet North of said U.S. 54 Highway, 258.59 to a point on the West line of Miles Lakewood Village Second Addition, Wichita Sedgwick County, Kansas; thence S01°28'11"E along the West line of said Miles Lakewood Village Second Addition, and Davis Moore 12th Addition, Wichita Sedgwick County, Kansas, 41.31 feet to a point on the North line of said U.S. 54 Highway; thence S74°04'48"W along said U.S. 54 Highway, 419.31 feet; thence S15°55'12"E, 125 feet; thence S71°17'23"W, 324.5 feet; thence S76°05'36"W, 210.7 feet; thence S83°50'05"W, 19.89 feet to the S.E. corner Lot 1, Block A, Quiktrip 10th Addition, Wichita, Sedgwick County, Kansas; thence N01°19'41"W, 236.41 feet to the N.E. corner of said Quiktrip 10th Addition; thence S88°12'33"W along the North line of said Quiktrip 10th and the North line of Lot 1, Block A, Quiktrip 8th Addition, Wichita, Sedgwick County, Kansas, 236 feet to a bend point in the East line of said Quiktrip 8th Addition; thence N01°18'15"W along the East line of said Quiktrip 8th Addition and said Kansas State Bank Addition, 500 feet to the point of beginning.

Said tract contains 414,279 square feet more or less.

#### TRACT B

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as commencing at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 200 feet to the Point of Beginning thence continuing N88°20'30"E, 399.5 feet; thence S01°18'15"E, 275 feet; thence S88°20'30"W, 399.5 feet; thence N01°18'15"W, 275 feet to the point of beginning;

#### ALONG WITH,

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas and Lot 5, Verda Vista, Sedgwick County, Kansas all being described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 659.8 feet to a point on the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG:

28652650; thence N12°55'02"W along said Easement, 59.72 feet; thence continuing along said Easement N36°46'09"W, 96.11 feet; thence N51°17'57"W, 146.12 feet; thence N35°39'24"W, 95.48 feet; thence N16°26'04"W, 101.68 feet; thence N11°19'07"W, 120.39 feet along the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG: 28652650, and DOC#/FLM-PG: 28652651; thence continuing N22°33'08"W, along said DOC#/FLM-PG: 28652651, 179.57 feet; thence N16°20'54"W, 124.1 feet; thence N25°52'23"E, 38.55 feet more or less to a point on the South line of the North 40 acres of the SW1/4 of said Section 29; thence S88°20'41"W along the South line of the North 40 acres of said SW1/4, 299.04 feet to a point 270 feet East of the West line of said SW1/4, said point being 30 feet North of the N.E. corner of Lot 1, Verda Vista Sedgwick County, Kansas; thence S01°18'15"E along the East line of said Verda Vista, 450 feet to the N.E. corner of Lot 5, in said Verda Vista; thence S88°20'41"W, 220 feet to the N.W. corner of said Lot 5; thence S01°18'15"E, 100 feet to the S.W. corner of said Lot 5; thence N88°20'41"E, 220 feet to the S.E. corner of said Lot 5; thence S01°18'15"E, 300 feet to the point of beginning.

Said tract contains 495,992 square feet more or less.

ALONG WITH,

TRACT C

Lot 7, Verda Vista, Sedgwick County, Kansas.

Said tract contains 22,000 square feet more or less.



RECEIVED

JUL 23 '10

CITY CLERK OFFICE

**COMMUNITY IMPROVEMENT DISTRICT PETITION**

To the Mayor and City Council  
Wichita, Kansas

Dear Council Members:

- 1) We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows/provided in **Exhibit A** attached hereto:

**IMPROVEMENT DISTRICT**

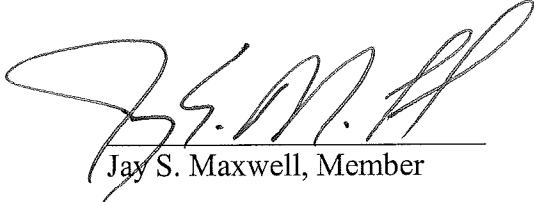
do hereby petition pursuant to the provisions of K.S.A. 12-6a26 et seq., as amended (the "Act"):

- (a) **General Nature:** That the general nature of the proposed community improvement district ("CID") project, Maize 54 (the "**Project**"), is a mixed-use commercial district that is anticipated to leverage approximately \$95 million in private capital investment over an estimated 5-year development period in accordance with the general development plan as depicted in **Exhibit B** attached hereto . The undersigned request the City of Wichita to assist the Project by providing community improvement financing in accordance with City of Wichita policy and the Act to finance the construction, maintenance, and procurement of certain improvements, costs and services within the District, which may include, but are not limited to: land acquisition, infrastructure related items, streets, sidewalks, parking lots and facilities, buildings, facilities, tenant improvements, water management and drainage related items, landscaping, lighting, art, water features and other cultural amenities ,and the City's financing costs (if any) as well as the City's administrative costs in establishing and maintaining the District.
- (b) **Estimated Cost:** That the estimated cost of the Project is **\$95 Million Dollars (\$95,000,000)** of which the maximum CID eligible cost is **\$75 Million Dollars (\$75,000,000)**, exclusive of the cost of interest on borrowed money and exclusive of any other public funds that may be received. See attached "**Exhibit C**" for a detailed budget.
- (c) **Proposed Method of Financing:** That the proposed Projects be financed through the use of a "*Pay-as-you-go basis*" as defined in the Act.
- (d) **Proposed Amount of Sales Tax:** That the proposed amount of Community Improvement District sales tax, if any, shall be an *increment of 2%* for twenty two (22) years.

(e) That a legal description map of the proposed CID are attached hereto as **Exhibits A and D**, respectively.

- 2) It is requested that the improvement hereby petitioned be made with notice and public hearing, pursuant to City policy.
- 3) That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first, and that the signers consent to any assessments to the extent described therein without regard to benefits conferred by the project.
- 4) That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by the owners of 100% of the land area within the proposed district. The Governing Body is requested to proceed in the manner provided by statute and City policy.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<b><u>Improvement District</u></b>		
Maize 54, LLC	 Jay S. Maxwell, Member	<u>6-23-10</u>

*[Please include printed names, as well as titles and representative capacity if the signer is signing for a business entity other than a natural person, and have each signature be notarized]*



## EXHIBIT A

### TRACT A

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 200 feet; thence S01°18'15"E, 275 feet; thence N88°20'30"E, 399.5 feet; thence N01°18'15"W, 275 feet; thence N88°20'30"E, 205.96 feet; thence S14°10'35"E, 401.95 feet to a point 40 feet North of the North line of U.S. 54 Highway as deeded on Film 2144, Page 1847; thence N74°04'48"E parallel with and 40 feet North of said U.S. 54 Highway, 258.59 to a point on the West line of Miles Lakewood Village Second Addition, Wichita Sedgwick County, Kansas; thence S01°28'11"E along the West line of said Miles Lakewood Village Second Addition, and Davis Moore 12th Addition, Wichita Sedgwick County, Kansas, 41.31 feet to a point on the North line of said U.S. 54 Highway; thence S74°04'48"W along said U.S. 54 Highway, 419.31 feet; thence S15°55'12"E, 125 feet; thence S71°17'23"W, 324.5 feet; thence S76°05'36"W, 210.7 feet; thence S83°50'05"W, 19.89 feet to the S.E. corner Lot 1, Block A, Quiktrip 10th Addition, Wichita, Sedgwick County, Kansas; thence N01°19'41"W, 236.41 feet to the N.E. corner of said Quiktrip 10th Addition; thence S88°12'33"W along the North line of said Quiktrip 10th and the North line of Lot 1, Block A, Quiktrip 8th Addition, Wichita, Sedgwick County, Kansas, 236 feet to a bend point in the East line of said Quiktrip 8th Addition; thence N01°18'15"W along the East line of said Quiktrip 8th Addition and said Kansas State Bank Addition, 500 feet to the point of beginning.

Said tract contains 414,279 square feet more or less.

### TRACT B

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as Commencing at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 200 feet to the Point of Beginning thence continuing N88°20'30"E, 399.5 feet; thence S01°18'15"E, 275 feet; thence S88°20'30"W, 399.5 feet; thence N01°18'15"W, 275 feet to the point of beginning;

ALONG WITH,

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas and Lot 5, Verda Vista, Sedgwick County, Kansas all being described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 659.8 feet to a point on the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG:

28652650; thence N12°55'02"W along said Easement, 59.72 feet; thence continuing along said Easement N36°46'09"W, 96.11 feet; thence N51°17'57"W, 146.12 feet; thence N35°39'24"W, 95.48 feet; thence N16°26'04"W, 101.68 feet; thence N11°19'07"W, 120.39 feet along the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG: 28652650, and DOC#/FLM-PG: 28652651; thence continuing N22°33'08"W, along said DOC#/FLM-PG: 28652651, 179.57 feet; thence N16°20'54"W, 124.1 feet; thence N25°52'23"E, 38.55 feet more or less to a point on the South line of the North 40 acres of the SW1/4 of said Section 29; thence S88°20'41"W along the South line of the North 40 acres of said SW1/4, 299.04 feet to a point 270 feet East of the West line of said SW1/4, said point being 30 feet North of the N.E. corner of Lot 1, Verda Vista Sedgwick County, Kansas; thence S01°18'15"E along the East line of said Verda Vista, 450 feet to the N.E. corner of Lot 5, in said Verda Vista; thence S88°20'41"W, 220 feet to the N.W. corner of said Lot 5; thence S01°18'15"E, 100 feet to the S.W. corner of said Lot 5; thence N88°20'41"E, 220 feet to the S.E. corner of said Lot 5; thence S01°18'15"E, 300 feet to the point of beginning.

Said tract contains 495,992 square feet more or less.

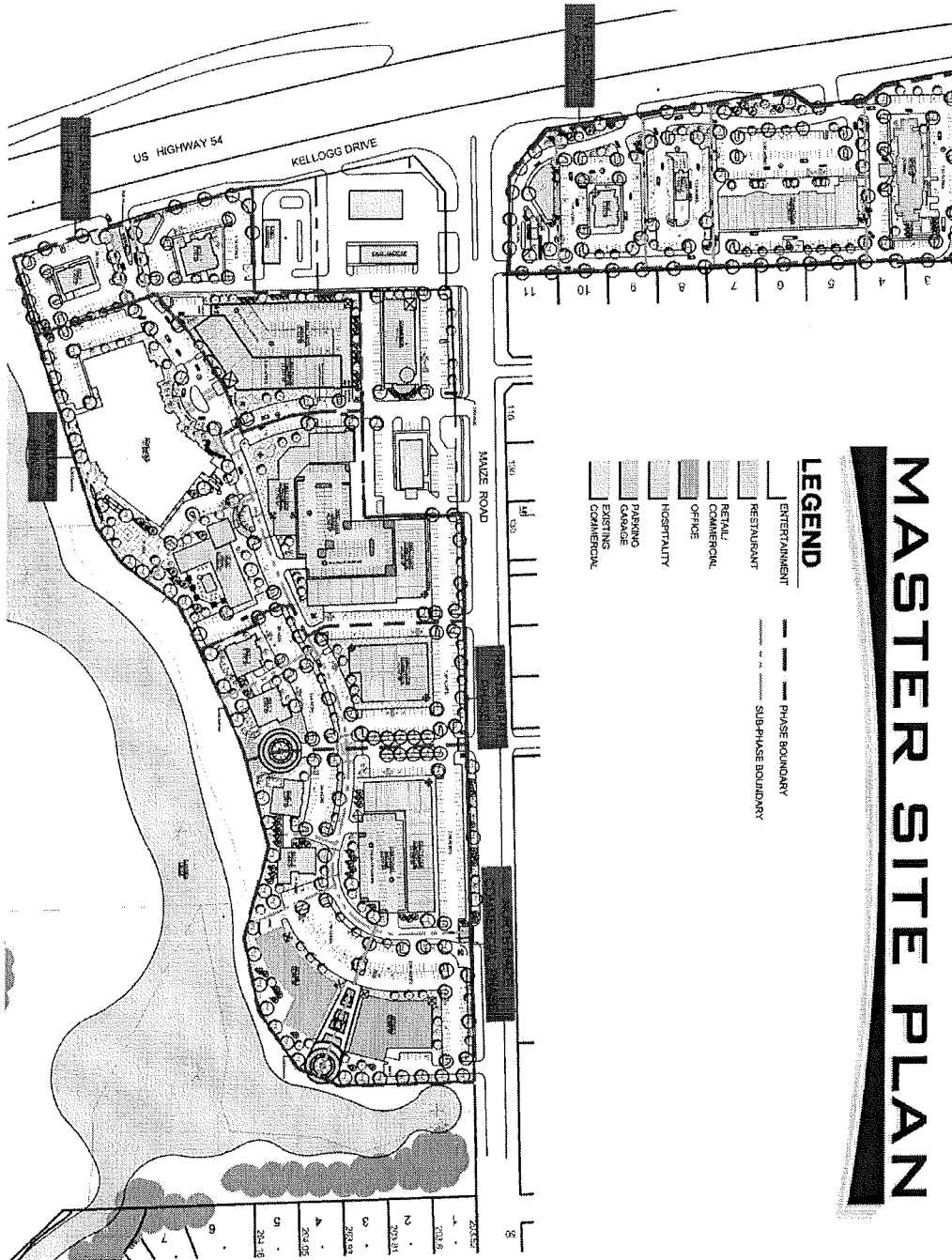
ALONG WITH,

TRACT C

Lot 7, Verda Vista, Sedgwick County, Kansas.

Said tract contains 22,000 square feet more or less.

# EXHIBIT B



**SPT**

**MAIZE 54**  
**MASTER PLAN**  
WICHITA, KANSAS

12 MAR 10

**Maize 54, LLC**  
**COMMUNITY IMPROVEMENT DISTRICT**  
Use of Funds

**Sources of Funds**

CID	\$	16,000,000
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\$ 16,000,000

**Uses of Funds**

**Capital Expenditures**

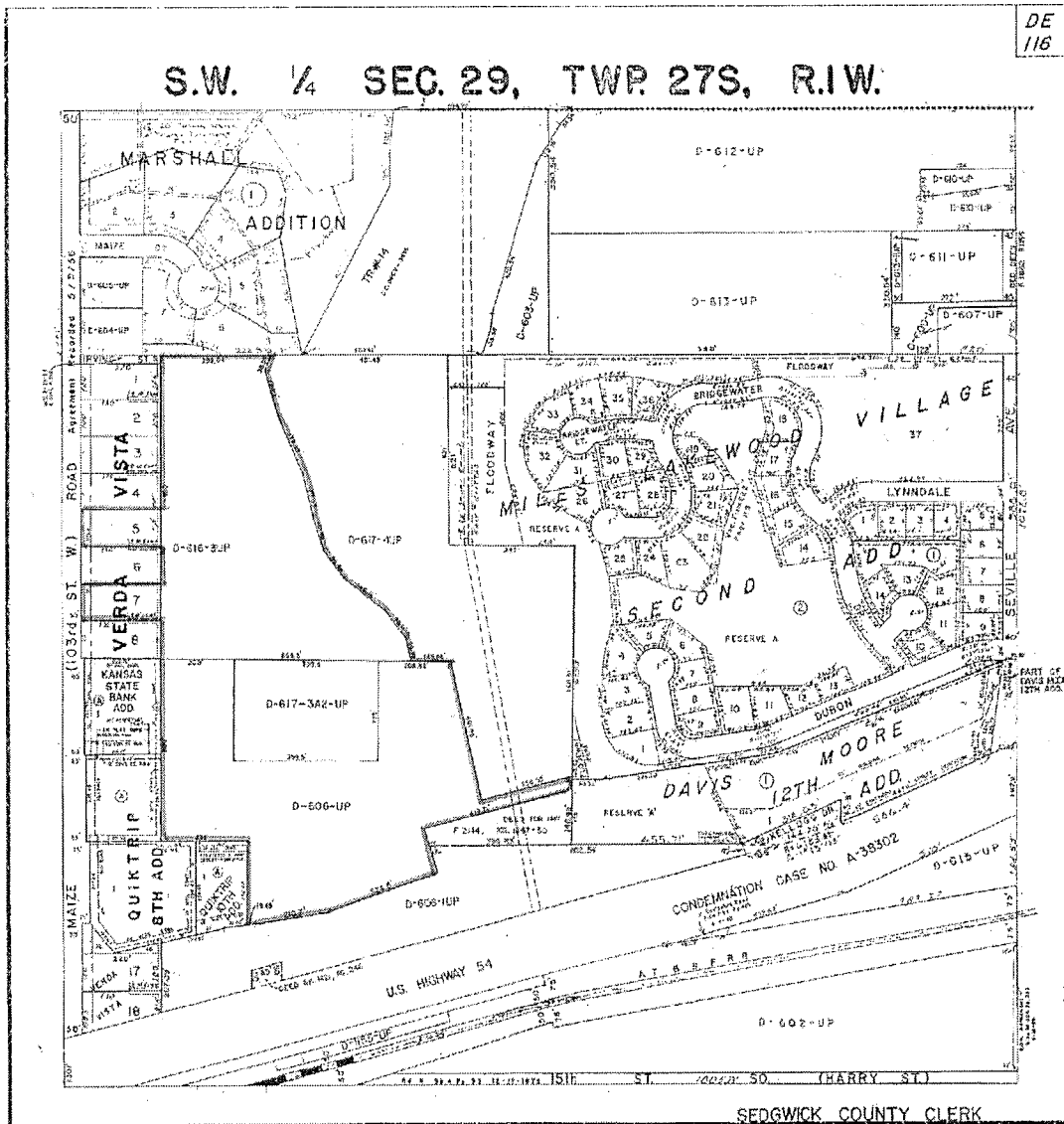
Buildings, structures, and other facilities	\$	46,000,000
Drainage Improvements	\$	2,000,000
Site Improvements and Amenities	\$	2,000,000
Public Street Improvements	\$	1,000,000
Professional Design Services	\$	2,000,000

**Annual Operational Expenditures**

Including but not limited to, advertising, sales promotions, tourism promotions, economic development, etc.	\$	22,000,000
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<b>GRAND TOTAL</b>		<u><u>\$ 75,000,000</u></u>
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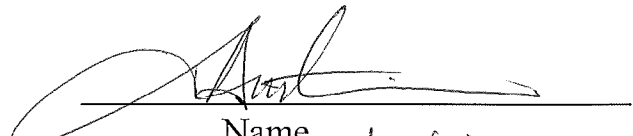
Exhibit D



□ CID DISTRICT BOUNDARY

## AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

  
Name  
Timothy R. Austin

Poe & Associates, Inc.  
5940 E. Central; Suite 200  
Wichita, KS 67208  
Address

(316) 685-4114  
Telephone Number

Sworn to and subscribed before me 24<sup>th</sup> day of June, 2010.



  
Deputy City Clerk

City of Wichita  
City Council Meeting  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Petition to approve a Community Improvement District for Central Park Place Development (District V)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

.....

**Recommendation:** Accept the petition and adopt the resolution setting a public hearing for consideration of the establishment of a Community Improvement District.

**Background:** In 2009, the Kansas Legislature enacted, and the Governor signed into law, the Community Improvement District Act (CID Act), which allows property owners to petition cities or counties to create districts in which certain special taxes are imposed and the resulting revenue used to fund certain public and private improvements and the payment of certain ongoing operating costs, within the districts. In April of 2010 the City Council adopted a policy which addresses how the City will utilize the tool and outlined the approval process.

Brad Saville, a local developer, has submitted a petition for a Community Improvement District (CID) for a development in the 2600 block of North Maize Road, called Central Park Place Shopping Center. The petition signed by owners representing 100% of the improvement district is submitted for City Council approval.

**Analysis:** CID projects may be funded by either special assessment taxes on the real property within the CID or by a special retail sales tax of up to 2% on all taxable retail sales within the district, or both. Under the CID Act, cities and counties may use the CID tax revenues to repay bonds, either full faith and credit (general obligation) bonds or special obligation (revenue) bonds, issued to finance eligible improvements; or the CID revenue may be passed through to developers to fund the cost of the improvements, or qualified operating costs, on a pay-as-you-go basis. The City CID Policy encourages the use of pay-as-you-go financing and allows the use of special obligation bonds, but does not permit the use of general obligation bonds. The maximum term of a CID is 22 years.

The developer plans a project that will develop the area adjacent to the new Lowe's home improvement store on North Maize Road, south of 29<sup>th</sup> Street North. CID financing is planned to be used for land acquisition and infrastructure construction within the district, and any other costs allowed by law. The petitioned maximum amount of CID financing is \$28,900,075. The proposed amount of Community Improvement District sales tax for this district is 1% which will be paid on a pay-as-you-go basis for up to 22 years.

Although the Act allows for CID petitions that only use sales tax revenue to be signed by only 55% of the owners within a district, the City's CID Policy requires a 100% petition and a public hearing for the proposed district. To establish a CID, the City Council must first adopt a resolution which states that the City Council is considering the establishment of the CID and sets a date for a public hearing on the matter. The resolution must then be published at least once each week for two consecutive weeks and be sent by certified mail to all owners of land within the proposed CID. Given this process, the earliest date a public hearing may be held for this project would be September 14, 2010. After closing the public hearing, the City Council may adopt an ordinance establishing the district.

**Financial Considerations:** The cost of mailing the Resolution to all owners of property located within the proposed district will be charged to Economic Development Fund and will be repaid with administrative fees collected from the district. Brad Saville has paid the \$5,000 non-refundable application fee, as required by the City's CID Policy.

The developer has requested pay-as-you-go financing. The City will not issue debt for this. Proceeds will be held by the City and disbursed pursuant to a development agreement. The City will withhold 5% of the CID revenues distributed by the State, after giving credit for the application fee, and disperse the balance of the CID proceeds to the developer until the maximum amount identified in the petition (\$28,900,075) has been reimbursed or the 22-year term has expired, whichever is earlier.

**Goal Impact:** Economic Vitality and Affordable Living and Quality of Life. This project facilitates commercial development in a fast growing area of the City. Business prospects and workers seeking to relocate are attracted to a city that takes offers convenient shopping option.

**Legal Considerations:** State Law allows Community Improvement Districts to be established by Ordinance following a public hearing. The form of the petition and resolution has been approved by the Law Department.

**Recommendation/Action:** It is recommended that the City Council accept the petition and adopt the resolution setting a public hearing on September 14, 2010 for consideration of the establishment of a Community Improvement District.

**Attachments:** Resolution and Petition



## RESOLUTION NO. 10-207

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, PROVIDING FOR NOTICE OF A PUBLIC HEARING CONCERNING ADVISABILITY OF THE CREATION OF A COMMUNITY IMPROVEMENT DISTRICT WITHIN THE CITY AND PROPOSING THE LEVYING OF A COMMUNITY IMPROVEMENT DISTRICT SALES TAX PURSUANT TO K.S.A. 12-6a26 *ET SEQ.*, AS MAY BE AMENDED.

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "Act"), the City of Wichita, Kansas (the "City"), is authorized to create a community improvement district as provided in the Act to provide for the acquisition, improvement, construction, demolition, removal, renovation, reconstruction, restoration, replacement, repair, furnishing and equipping buildings, structures, facilities, sidewalks, roads, parking lots, traffic signs and signals, utilities, pedestrian amenities, drainage, water, storm and sewer systems, underground gas, heating and electrical services and extensions, water mains and extensions, site improvements, street lights, lighting, street light fixtures, benches, awnings, canopies, walls, trees, landscapes and other cultural amenities (collectively, the "CID Projects" or each a "CID Project"); and

WHEREAS, upon proper petition, the Act further authorizes the City, in order to pay the costs of any project which is a CID Project, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within a community improvement district in any increment of .10% or .25% not to exceed 2% (a "CID Sales Tax") and to reimburse the costs of the such project pursuant to pay-as-you-go financing and/or the issuance of special obligation notes and bonds payable from such community improvement district sales tax; and

WHEREAS, a petition (the "Petition") has been filed with the City Clerk of the City proposing the creation of a community improvement district pursuant to the Act (the Central Park Place CID), the completion of a project relating thereto as more particularly described on Exhibit A attached hereto (the "Project"), the imposition of a CID Sales Tax and the levying of special assessments in order to pay the costs of the Project; and

WHEREAS, the Petition was signed by the owners of all of the land area within the proposed Central Park Place CID; and

WHEREAS, the proposed Central Park Place CID is located in the 2600 block of North Maize Road within the City; and

WHEREAS, the petition proposes that the City impose a one percent (1%) CID Sales Tax within the Central Park Place CID which may be levied by ordinance following the hearing; and

WHEREAS, the Act provides that prior to creating any community improvement district, the City shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and authorizing a CID Project therein and the intent of the City to levy a CID Sales Tax within such district and shall give notice of said public hearing in accordance with the Act;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

1. Notice is hereby given that a public hearing to consider the advisability of the creation by the City of the Central Park Place CID and the imposition by the City of a one percent (1%) CID Sales Tax within the Central Park Place CID shall be held on September 14, 2010, beginning at 9:00 a.m. or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

2. The general nature of the proposed Project to be constructed within the proposed Central Park Place CID is set forth on Exhibit A attached hereto and incorporated by reference herein.

3. The estimated cost of the Project within the proposed Central Park Place CID is \$31,904,450.

4. The Project within the proposed Central Park Place CID will be financed on a pay-as-you-go basis from revenues received from the imposition of a one percent (1%) CID Sales Tax within the proposed Central Park Place CID.

5. A legal description of the proposed Central Park Place CID is set forth in Exhibit B attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the proposed Central Park Place CID is attached hereto as Exhibit C and incorporated herein by reference.

6. The City Clerk shall give notice of the public hearing in accordance with the provisions of the Act by publishing this resolution at least once each week for two consecutive weeks in the newspaper and sending this resolution by certified mail to all owners. The second publication of this resolution shall occur at least seven days prior to the date of hearing and the certified mailed notice shall be sent at least ten days prior to the date of hearing.

ADOPTED by the Governing Body this 3<sup>rd</sup> day of August, 2010.

APPROVED and SIGNED by the Mayor the 3<sup>rd</sup> day of August, 2010.

CITY OF WICHITA, KANSAS

By: \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, City Attorney

## EXHIBIT A

### PROJECT

The general nature of the proposed projects (the “Projects”) is to finance the construction, maintenance, and procurement of certain improvements, costs, and services within the district, including, but not limited to: land acquisition, infrastructure related items, streets, sidewalks, parking lots and facilities, buildings, facilities, tenant improvements, water management and drainage related items, landscaping, lighting, art, water features and other cultural amenities, ongoing maintenance of the district, marketing, advertisement and economic development, cleaning and maintenance, and the City’s and the developer’s financing costs (if any) as well as the City’s and the developer’s administrative costs in establishing and maintaining the District and any other items permitted to be financed within the district under the Act.

## EXHIBIT B

### LEGAL DESCRIPTION

Lots 1, 3, 4, 5, 6, and 7, all in Block 1, and Reserve A and Reserve B, all in the Pearson Commercial Addition

# EXHIBIT "C"

## Proposed Central Park Place Community Improvement District

City of Wichita, Kansas

Proposed  
Central Park Place  
Community Improvement  
District

Property Parcels within  
District

Property Parcels outside  
District

Software: ArcGIS 9.3.1  
Hardware: Dell Xeon  
Printer: HP 5020 Plotter

Map Data Source:  
Property Parcels  
provided by  
Sedgewick County GIS

Road Centerlines  
provided by  
City of Wichita

Modifiable: 08/13/2012 3:02:20 PM  
X:\gis\proj\GIS\MapServer\MapInfo\CDI.mxd

It is understood that while the City of Wichita does own  
the copyright to the map data, the City of Wichita does not  
warrant or guarantee the accuracy or completeness of the  
information contained in the map data.



10124

2626

2626

2616

10014 10010 10006

10018

2548

2548

2552

2556

N MAIZE RD

W CENTRAL PARK ST

2727

2735

2441

2661

2641

2441

2441

2441

RECEIVED

JUL 22 '10

CITY CLERK OFFICE

COMMUNITY IMPROVEMENT DISTRICT PETITION

To the Mayor and City Council  
Wichita, Kansas

Dear Council Members:

- 1) We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows/ provided in **Exhibits A1 and A2**:

**IMPROVEMENT DISTRICT**

do hereby petition pursuant to the provisions of K.S.A. 12-6a26 et seq., as amended (the "Act"):

- (a) **General Nature:** That the general nature of the proposed community improvement district ("CID") project, the Central Park Place Shopping Center CID ("**Project**"), is to finance the construction, maintenance, and procurement of certain improvements, costs, and services within the district, including, but not limited to: land acquisition, infrastructure related items, streets, sidewalks, parking lots and facilities, buildings, facilities, tenant improvements, water management and drainage related items, landscaping, lighting, art, water features and other cultural amenities, ongoing maintenance of the district, marketing, advertisement and economic development, cleaning and maintenance, and the City's and the developer's financing costs (if any) as well as the City's and the developer's administrative costs in establishing and maintaining the District and any other items permitted to be financed within the district under the Act. The undersigned request the City of Wichita to assist the Project by providing community improvement financing in accordance with City of Wichita policy and the Act to finance the above-listed items.
- (b) **Estimated Cost:** That the estimated cost of the Project is **Twenty Eight Million Nine Hundred Thousand Seventy Five Dollars (\$28,900,075)** of which the maximum CID eligible cost is **Twenty Eight Million Nine Hundred Thousand Seventy Five Dollars (\$28,900,075)**, exclusive of the cost of interest on borrowed money. See attached "**Exhibit A3**" for a detailed budget.
- (c) **Proposed Method of Financing:** That the proposed Projects be financed through the use of a special sales tax on a Pay-as-you-go basis as defined in the Act.
- (d) **Proposed Amount of Sales Tax:** That the proposed amount of Community Improvement District sales tax, if any, shall be 1% for 22 years, or such lesser

number of years as may be required to produce revenues sufficient for the payment of the maximum CID eligible cost identified in (b), above.

- (e) **Proposed Method and Amount of Assessment if any:** No assessments are proposed hereunder.
  - (f) That a legal description and map of the proposed CID are attached hereto as **Exhibits A1 and A2.**
- 2) It is requested that the improvement hereby petitioned be made with notice and public hearing, pursuant to City policy.
  - 3) That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first, and that the signers consent to any assessments to the extent described therein without regard to benefits conferred by the project.
  - 4) That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by the owners of 100% of the land area within the proposed district. The Governing Body is requested to proceed in the manner provided by statute and City policy.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

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[SIGNATURES FOLLOW ON PAGES BELOW]

CENTRAL PARK PLACE RETAIL, LLC

By: [Signature]

Name: BRADLEY SAMUELS

Title: Managing Member

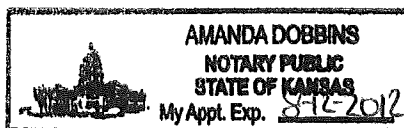
STATE OF Kansas )  
COUNTY OF Sedgewick ) ss.

BE IT REMEMBERED that on this 22nd day of July, 2010, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Bradley Samuels, to me personally known, who being by me duly sworn did say that (s)he is the managing member of Central Park Place Retail, LLC, and that the within instrument was signed and sealed on behalf of said Central Park Place Retail, LLC by authority thereof, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal in the date herein last above written.

My Commission Expires:

8-12-2012  
[SEAL]



Amanda Dobbins

Notary Public in and for said County and State

Print Name: Amanda Dobbins



IN WITNESS WHEREOF, the undersigned petitioners have executed the above foregoing petition to create the district at the dates set forth opposite their respective signatures below:

EAST SIDE INVESTMENTS, LLC

By: 

Name: BRADEN SAVILLE

Title: Manag. member

STATE OF Kansas )  
COUNTY OF Sedgwick ) ss.

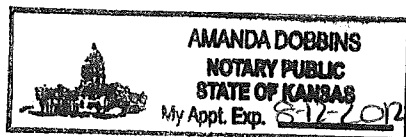
BE IT REMEMBERED that on this 22<sup>nd</sup> day of July, 2010, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Bradley Saville, to me personally known, who being by me duly sworn did say that (s)he is the managing member of East Side Investments, LLC, and that the within instrument was signed and sealed on behalf of said East Side Investments, LLC by authority thereof, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein expressed.


IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal in the date herein last above written.

My Commission Expires:

8-12-2012

[SEAL]





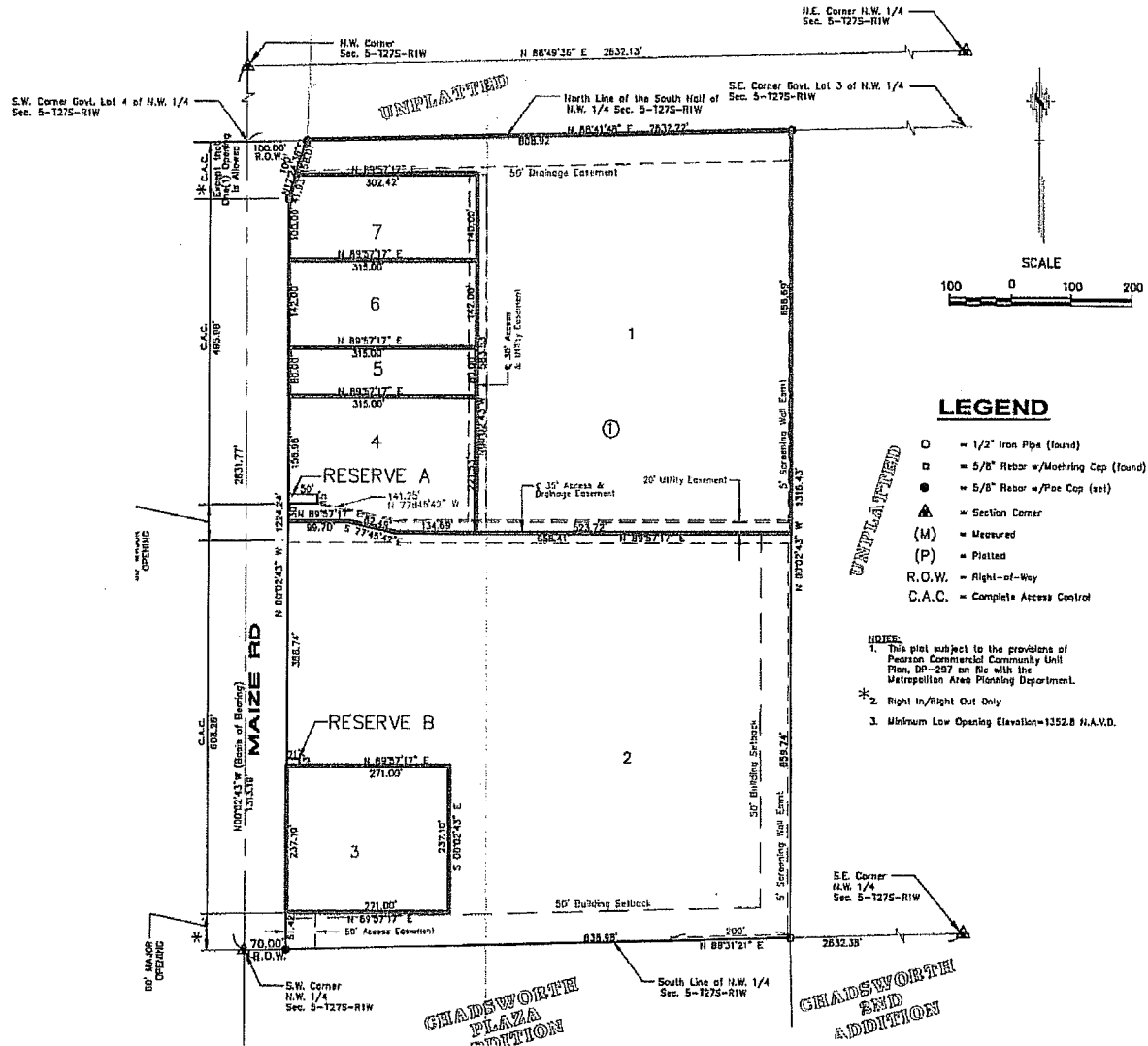
Notary Public in and for said County and State

Print Name Amanda Dobbins

**Exhibit A-1**  
**Legal Description of District**

Lots 1, 3, 4, 5, 6, and 7, all in Block 1, and Reserve A and Reserve B, all in the Pearson Commercial Addition

## Exhibit A-2 Map of District



(BOUNDARIES SHOWN IN BOLD OUTLINE)

**Exhibit A-3**  
**CID Eligible Project Budget**

<b><u>DESCRIPTION</u></b>		<b><u>COST</u></b>
<b><u>ACQUISITION COSTS</u></b>		
Purchase Price	\$	900,000
Due Dilligence (2%)	\$	18,000
Closing Costs (2.5%)	\$	22,500
<b>SUBTOTAL</b>	<b>\$</b>	<b>940,500</b>
<b><u>SITE WORK</u></b>		
Sewer Extension	\$	150,000
Road Construction	\$	100,000
Lowe's Parking Lot	\$	800,000
Permits	\$	10,000
<b>SUBTOTAL</b>	<b>\$</b>	<b>1,060,000</b>
<b><u>HARD CONSTRUCTION COSTS</u></b>		
45,000 SF Retail (\$100 psf, \$30 psf TI)	\$	5,850,000
75,000 SF Retail (\$100 psf, \$30 psf TI)	\$	9,750,000
8,960 SF Inline Retail	\$	1,800,000
4,500 SF Pad (\$200 psf)	\$	900,000
4,500 SF Pad (\$200 psf)	\$	900,000
7,200 SF Pad (\$200 psf)	\$	1,440,000
<b>SUBTOTAL</b>	<b>\$</b>	<b>20,640,000</b>
<b><u>SOFT COSTS</u></b>		
Civil land planning	\$	175,000
Brokerages	\$	225,000
Legal	\$	175,000
Other	\$	75,000
<b>SUBTOTAL</b>	<b>\$</b>	<b>650,000</b>
<b><u>ONGOING EXPENSES</u></b>		
Leasing/Marketing	\$	500,000
District Maintenance	\$	1,220,000
Administrative	\$	120,000
<b>SUBTOTAL</b>	<b>\$</b>	<b>1,840,000</b>
<b><u>TOTALS</u></b>		
Acquisition Costs	\$	940,500
Site Work	\$	1,060,000
Hard Construction Costs	\$	20,640,000
Soft Costs	\$	650,000
Ongoing Expenses	\$	1,840,000
<b>TOTAL CID ELIGIBLE PROJECT COSTS</b>	<b>\$</b>	<b>25,130,500</b>
<b>TOTAL (With 15% Contingency)</b>	<b>\$</b>	<b>28,900,075</b>

City of Wichita  
City Council Meeting  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Petition to approve a Community Improvement District for the Planeview Grocery Store Project (Geo. Washington Blvd. and Pawnee) and Resolution considering the establishment of a Redevelopment District (Tax Increment Financing) – District III

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

**Recommendation:** Accept the petition and adopt the resolutions setting a public hearing for consideration of the establishment of a Community Improvement District and a Redevelopment District.

**Background:** Wichita developer Rob Snyder has requested City assistance with the development of a Sav-A-Lot Grocery Store at the corner of George Washington Boulevard and Pawnee Avenue, in the Planeview area of Southeast Wichita. Specifically, Mr. Snyder has presented a petition for the creation of a Community Improvement District (CID) to provide pay-as-you-go financing through a two percent two percent (2%) CID sales tax, and is requesting the establishment of a Redevelopment District to provide tax increment financing (TIF).

**Analysis:** Mr. Snyder is working with a franchise operator of Sav-A-Lot Grocery Stores to develop a 15,000 square foot grocery store to provide affordable access to grocery shopping to the underserved Planeview area. However, the economics of the project leaves a funding gap of approximately \$950,000 on a total project cost of over \$2,000,000. Mr. Snyder proposes closing this gap with a combination of CID, TIF financing and other sources. The preliminary gap analysis is as follows:

Total Project Cost	\$2,080,000
Bank Loan (based on lease)	(980,000)
Developer Equity	<u>(150,000)</u>
Gap	\$950,000
CID financing	(510,000)
TIF financing	(400,000)
Remaining Gap	\$40,000

The recently enacted Community Improvement District Act (CID Act) allows property owners to petition cities or counties to create districts in which certain special taxes are imposed and the resulting revenue used to fund certain public and private improvements and the payment of certain ongoing operating costs, within the districts. In April of 2010 the City Council adopted a policy which addresses how the City will utilize the tool and outlined the approval process, including the requirement that petitions be signed by 100% of property owners within the proposed CID. In the attached petition, Mr. Snyder has identified the district to include only the property he currently owns at George Washington and Pawnee.

CID projects may be funded by either special assessment taxes on the real property within the CID or by a special retail sales tax of up to two percent (2%) on all taxable retail sales within the district, or both. Under the CID Act, cities and counties may use the CID tax revenues to repay bonds, either full faith and credit (general obligation) bonds or special obligation (revenue) bonds, issued to finance eligible improvements; or the CID revenue may be passed through to developers to fund the cost of the improvements, or qualified operating costs, on a pay-as-you-go basis, for a maximum term of 22 years. The developer proposes the Planeview Grocery Store CID include a two percent (2%) sales tax and pay-as-you-go financing.

To establish a CID, the City Council must first adopt a resolution which states that the City Council is considering the establishment of the CID and sets a date for a public hearing on the matter. The resolution must then be published at least once each week for two consecutive weeks and be sent by certified mail to all owners of land within the proposed CID. Given this process, the earliest date a public hearing may be held for this project would be September 14, 2010. After closing the public hearing, the City Council may adopt an ordinance establishing the district.

In addition to CID, the developer is requesting the establishment of a Redevelopment District to cover a portion of the funding gap. The district is an area that qualifies as a "blighted area" under the state TIF statutes. The property within the district has a majority of the qualifying factors present to constitute a "blighted area," including an inadequate street layout, unsanitary or unsafe conditions, conditions that endanger life or property, deteriorating site improvements, obsolete land uses and conditions of economic obsolescence.

Tax increment financing allows the increased tax revenue that results from the redevelopment of property to be reinvested in the redevelopment project. Once a TIF district is established and a redevelopment project plan is adopted by City Council, the increment of increased tax revenue is set aside by the County Treasurer, to be used by the City to repay bonds issued to finance certain improvements that are specified in the redevelopment project plan or the TIF revenue may be passed through to developers to fund the cost of the improvements, or qualified operating costs, on a pay-as-you-go basis, for a maximum term of 20 years. After the projects costs are repaid, the property tax increment is distributed to the City, County, School District and other applicable taxing jurisdictions.

The first step in establishing the tax increment district is the adoption of a resolution which states that the City Council is considering the establishment of the TIF district and sets the date for a public hearing on the matter. The earliest date a public hearing may be held for this project is September 14, 2010. After closing the public hearing, the City Council may adopt an ordinance establishing the redevelopment district. The final step in the approval process involves the adoption of a detailed project plan and approval of a development agreement by City Council. The developer proposes to use TIF funds on a pay-as-you-go basis, as well.

The initiating resolution now before Council for adoption directs the City Clerk to publish the resolution in the City's official newspaper and to mail copies, by certified mail, to the owners and occupants of all property located within the district and to the Board of County Commissioners and Board of Education. The resolution also includes a map of the proposed district and a proposed district plan identifying potential redevelopment project areas and a general description of buildings and facilities to be constructed or improved.

**Financial Considerations:** The cost of mailing the resolutions to all owners and occupants of property located within the proposed district will be charged to Economic Development Fund and will be repaid with administrative fees collected from the district. Community Investment Districts do not affect the ad valorem taxes collected in Tax Increment Financing Districts. Rob Snyder has paid the \$5,000 non-refundable application fee, as required by the City's CID Policy.

The developer has requested pay-as-you-go financing, for both CID and TIF. Therefore, the City will not issue debt for this project. Proceeds will be held by the City and disbursed pursuant to the development agreement. The City will withhold five percent (5%) of the CID revenues distributed by the State, after giving credit for the application fee, and disperse the balance of the CID proceeds to the developer until the maximum amount identified in the petition has been reimbursed or the 22-year term has expired, whichever is earlier.

**Goal Impact:** Economic Vitality and Affordable Living and Quality of Life. This project facilitates redevelopment of a very low income area that is currently underserved with retail amenities. Business prospects and workers seeking to relocate are attracted to a new city that takes care of its older sections.

**Legal Considerations:** State Law allows Community Improvement Districts and Redevelopment Districts to be established by Ordinance following a public hearing. The form of the CID petition and resolutions setting the hearing date have been approved by the Law Department.

**Recommendation/Action:** It is recommended that the City Council accept the petition and adopt the resolutions setting public hearings on September 14, 2010 for consideration of the establishment of a Community Improvement District and a Redevelopment District for the Planeview Grocery Store Project.

**Attachments:** Resolutions and CID petition

Published in the Wichita Eagle on August 27 and September 3, 2010

RESOLUTION NO. 10-208

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, PROVIDING FOR NOTICE OF A PUBLIC HEARING CONCERNING ADVISABILITY OF THE CREATION OF A COMMUNITY IMPROVEMENT DISTRICT WITHIN THE CITY AND THE PROPOSED LEVY A COMMUNITY IMPROVEMENT DISTRICT SALES TAX PURSUANT TO K.S.A. 12-6a26 *ET SEQ.*, AS MAY BE AMENDED.

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "Act"), the City of Wichita, Kansas (the "City"), is authorized to create a community improvement district as provided in the Act to provide for the acquisition, improvement, construction, demolition, removal, renovation, reconstruction, restoration, replacement, repair, furnishing and equipping buildings, structures, facilities, sidewalks, roads, parking lots, traffic signs and signals, utilities, pedestrian amenities, drainage, water, storm and sewer systems, underground gas, heating and electrical services and extensions, water mains and extensions, site improvements, street lights, lighting, street light fixtures, benches, awnings, canopies, walls, trees, landscapes and other cultural amenities (collectively, the "CID Projects" or each a "CID Project"); and

WHEREAS, upon proper petition, the Act further authorizes the City, in order to pay the costs of any project which is a CID Project, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services within a community improvement district in any increment of .10% or .25% not to exceed 2% (a "CID Sales Tax") and to reimburse the costs of the such project pursuant to pay-as-you-go financing and/or the issuance of special obligation notes and bonds payable from such community improvement district sales tax; and

WHEREAS, a petition (the "Petition") has been filed with the City Clerk of the City proposing the creation of a community improvement district pursuant to the Act (the Planeview Grocery Store CID), the completion of a project relating thereto as more particularly described on Exhibit A attached hereto (the "Project"), and the imposition of a CID Sales Tax in order to pay the costs of the Project; and

WHEREAS, the Petition was signed by the owners of all of the land area within the proposed Planeview Grocery Store CID; and

WHEREAS, the proposed Planeview Grocery Store CID is located at the southeast corner of the intersection of George Washington Boulevard and Pawnee Avenue within the City; and

WHEREAS, the petition proposes that the City impose a two percent (2%) CID Sales Tax within the Planeview Grocery Store CID; and

WHEREAS, the Act provides that prior to creating any community improvement district, the City shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and authorizing a CID Project therein and the proposed CID Sales Tax within such district which may be levied by ordinance and shall give notice of said public hearing in accordance with the Act;



NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

1. Notice is hereby given that a public hearing to consider the advisability of the creation by the City of the Planeview Grocery Store CID and the imposition by the City of a two percent (2%) CID Sales Tax within the Planeview Grocery Store shall be held on September 14, 2010, beginning at 9:00 a.m. or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

2. The general nature of the proposed Project to be constructed within the proposed Planeview Grocery Store CID is set forth on Exhibit A attached hereto and incorporated by reference herein.

3. The estimated cost of the Project within the proposed Planeview Grocery Store CID is \$2,083,430.

4. The Project within the proposed Planeview Grocery Store CID will be financed on a pay-as-you-go basis from revenues received from the imposition of a two percent (2%) CID Sales Tax up to a maximum amount of \$2,083,430 within the proposed Planeview Grocery Store CID.

5. A legal description of the proposed Planeview Grocery Store CID is set forth in Exhibit B attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the proposed Planeview Grocery Store CID is attached hereto as Exhibit C and incorporated herein by reference.

6. The City Clerk shall give notice of the public hearing in accordance with the provisions of the Act by publishing this resolution at least once each week for two consecutive weeks in the newspaper and sending this resolution by certified mail to all owners. The second publication of this resolution shall occur at least seven days prior to the date of hearing and the certified mailed notice shall be sent at least ten days prior to the date of hearing.

ADOPTED by the Governing Body this 3<sup>rd</sup> day of August, 2010.

APPROVED and SIGNED by the Mayor the 3<sup>rd</sup> day of August, 2010.

CITY OF WICHITA, KANSAS

By: \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf, City Attorney

## EXHIBIT A

### PROJECT

The general nature of the proposed projects (the “Projects”) is to construct a new sixteen thousand-foot grocery store to serve Planeview and the surrounding area and to finance the construction, maintenance, and procurement of certain improvements, costs, and services within the District, including, but not limited to: land acquisition, infrastructure related items, streets, sidewalks, parking lots and facilities, buildings, facilities, tenant improvements, water management and drainage related items, landscaping, lighting, art, water features and other cultural amenities, ongoing maintenance of the District, marketing, advertisement and economic development, cleaning and maintenance, and the City’s administrative costs in establishing and maintaining the District, and any other items permitted to be financed within the District under the Act.

EXHIBIT B  
LEGAL DESCRIPTION

Lot 1, Block 1, the replat of Spencer Gardens Addition to Wichita, Sedgwick County, Kansas

# Proposed Planeview Community Improvement District

City of Wichita, Kansas

Proposed Planeview  
Community Improvement  
District



Property Parcels within  
District



Property Parcels outside  
District



Software: ArcGIS 9.3.1  
Hardware: Dell Xeon  
Printer: HP 5000 Plotter  
Map Data Source:  
Property parcels  
provided by  
Sedgewick County GIS  
Road Centerline  
provided by  
City of Wichita

Thumbnail: July 8, 2010, 1:18:47 PM  
X:\projects\Planeview\SSGP\Planeview\SSGP.mxd  
All information contained on this City of Wichita Data Center  
has been provided for informational purposes only. It is not  
warranted to be accurate, complete, or up-to-date. It is not  
intended to be used for legal or financial purposes.



First Published in the Wichita Eagle on September 3, 2010

Resolution No. 10-209

A RESOLUTION STATING THE CITY OF WICHITA IS CONSIDERING THE ESTABLISHMENT OF A REDEVELOPMENT DISTRICT FOR THE PLANEVIEW REDEVELOPMENT DISTRICT UNDER AUTHORITY OF K.S.A. 12-1770 ET SEQ. UNDER AUTHORITY OF K.S.A. 12-1770 ET SEQ.

WHEREAS, the provisions of K.S.A. 12-1770, et seq., as amended, set forth the procedure for the establishment of a redevelopment district for certain purposes in eligible areas; and

WHEREAS, the City of Wichita (the “City”) is considering the establishment of a redevelopment district in a blighted area to be known as the “Planeview Redevelopment District” to promote the general and economic welfare of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS;

Section 1. That the City is considering the establishment of a redevelopment district to be known as the Planeview Redevelopment District.

Section 2. That the City will hold a public hearing to consider the establishment of such redevelopment district on September 14, 2010, at 9:30 a.m., or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

Section 3. That a legal description of the proposed Planeview Redevelopment District is set forth in **Exhibit A** attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the proposed Planeview Redevelopment District is attached hereto as **Exhibit B** and incorporated herein by reference

Section 4. That the redevelopment district plan identifying proposed redevelopment project areas along with a general description of the buildings, facilities, and improvements that are proposed to be constructed or improved in the redevelopment district is attached hereto as **Exhibit C** and incorporated herein by reference.

Section 5. That a description and map of the proposed redevelopment district shall be available for inspection by the public in the City Clerk’s Office, City Hall, 13<sup>th</sup> Floor, 455 North Main Street, Wichita, Kansas, from 8:00 a.m. until 5:00 p.m., Monday through Friday, from the 3<sup>rd</sup> of August, 2010, until September 13, 2010.

Section 6. That the Governing Body will consider making findings necessary for the establishment of a redevelopment district at the public hearing set to be heard herein.

Section 7. That a copy of this resolution shall be delivered to the Sedgwick County Board of County Commissioners, and to the Board of Education of Unified School District No. 259. Copies of this resolution shall also be mailed by certified mail, return receipt requested, to each owner and occupant of land within the proposed redevelopment district not more than ten (10) days following the date of the adoption of this resolution.

Section 8. That this resolution shall be published once in the official City newspaper not less than one week or more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the proposed redevelopment district in sufficient detail to advise the reader of the particular land proposed to be included within the redevelopment district shall be published with the resolution.

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas, this 3<sup>rd</sup> day of August, 2010.

---

Carl Brewer, Mayor

ATTEST:

---

Karen Sublett, City Clerk

Approved as to Form:

---

Gary E. Rebenstorf, City Attorney

## **EXHIBIT A**

### **LEGAL DESCRIPTION**

Lot 1, Block 1, the replat of Spencer Gardens Addition to Wichita, Sedgwick County, Kansas

And:

Lot 2, Block 1, the replat of Spencer Gardens Addition to Wichita, Sedgwick County, Kansas



# Proposed Planeview Redevelopment District

City of Wichita, Kansas

Proposed Planeview  
Redevelopment  
District



Property Parcels within  
District



Property Parcels outside  
District

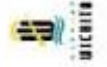


Software: ArcGIS 9.3.1  
Hardware: Dell Xeon  
Printer: HP 5000 Plotter

Map Data Source:  
Property Parcels  
provided by  
Sedgewick County GIS

Road Centerlines  
provided by  
City of Wichita

Thursday, July 22, 2011 11:02:28 AM  
K:\gisdata\Project\MapData\Planeview\101.mxd  
It is understood that when the City of Wichita Data Center  
Geographical Information Systems Department has no additional  
work to release that there are no commitments or obligations  
incurred in the data used for this project.





**EXHIBIT C****DISTRICT PLAN FOR THE REDEVELOPMENT OF THE  
PLANEVIEW REDEVELOPMENT DISTRICT THROUGH  
TAX INCREMENT FINANCING****August 3, 2010****SECTION 1: PURPOSE**

A district plan is required for inclusion in the establishment of a redevelopment district under K.S.A. 12-1771. The district plan is a preliminary plan that identifies proposed redevelopment project areas within the district, and describes in a general manner the buildings, facilities and improvements to be constructed or improved.

**SECTION 2: DESCRIPTION OF TAX INCREMENT INCOME**

Projects financed through tax increment financing typically involve the creation of an “increment” in real estate property tax income. The increment is generated by segregating the assessed values of real property located within a defined geographic area such that a portion of the resulting property taxes flow to the City to fund projects in the redevelopment district, and the remaining portion flows to all remaining taxing jurisdictions. The portion of property taxes flowing to the City is determined by the increase in the assessed value of the properties within the redevelopment district as a result of the new development occurring within the same area. When the current aggregate property tax rates of all taxing jurisdictions are applied to this increase in assessed property value from new development, increment income is generated. Public improvements within the district and other qualified expenditures are funded by the City and repaid over a specified period of time with this increment income. The property taxes attributable to the assessed value existing prior to redevelopment, the “original valuation,” continue to flow to all taxing jurisdictions just as they did prior to redevelopment. This condition continues for the duration of the established district, as defined by statute, or until all eligible project costs are funded, whichever is of shorter duration.

**SECTION 3: BUILDINGS AND FACILITIES**

The proposed redevelopment district is located within the city limits of Wichita, Kansas. The district is located on the southeast corner of the intersection of George Washington Boulevard and Pawnee Avenue; it includes Lots 1 and 2, Block 1 of the replat of Spencer Gardens Addition, in Wichita, Sedgwick County, Kansas; and including all street rights of way within such described areas. The district currently consists of a vacant lot that has been ignored due to an inadequate street layout, limiting access.

Property located within a blighted area is legally eligible for establishment of a

redevelopment district. The proposed redevelopment district is an area that meets the criteria for designation as a “blighted area” as defined by state law governing the establishment and financing of redevelopment districts based on the following conditions:

- Inadequate street layout. The layout of Pawnee and George Washington creates lots that are inadequately configured for development and traffic that is unable to access the site.
- Unsanitary or unsafe conditions. The vacant land in close proximity to the Planeview residential neighborhood is unsafe for children to play in or pass through.
- Conditions that endanger life or property due to fire or other causes. This vacant, over-grown area could be a location for illegal activities that threaten life and property.
- Deteriorating site improvements. Previous grading improvements have deteriorated, causing erosion damage and the need for new drainage improvements.
- Obsolete land use. The land has been vacant for many years with no prospect for development.
- Conditions that create economic obsolescence. As one of the most economically-challenged areas in the community, commercial development is very difficult.

#### **SECTION 4: REDEVELOPMENT AND PROJECT AREAS**

It is anticipated that all property within district will be designated as the “project area” under the redevelopment project plan, which must be adopted by the City Council by a 2/3 majority vote before the expenditure of any tax increment financing funds. The plans for redevelopment of the project area generally call for construction of a grocery store and other retail in the underserved Planeview neighborhood area.

Tax increment financing may be used to pay for the purchase of real estate and site preparation including the demolition of structures and utility relocations, as well as other public infrastructure improvements, such as streetscape, public parking, utility extensions, landscaping, and public plazas. Tax increment financing may not be used for construction of any buildings owned by or leased to a private, nongovernmental entity, except multi-story parking structures.

#### **SECTION 5: CONCLUSION**

After the establishment of the redevelopment district, any redevelopment projects to be funded with tax increment financing will be presented to the Governing Body for approval through the adoption of a Redevelopment Project Plan. The Project Plan will identify the specific project area located within the established tax increment financing district and will include detailed descriptions of the projects as well as a financial feasibility study showing that the economic benefits out-weigh the costs. The Project Plan must be reviewed by the Metropolitan Area Planning Commission and submitted to a public hearing following further notification of property owners and occupants, before

it can be adopted by a two-thirds majority vote of the Governing Body. Only then can tax increment income be spent on the redevelopment projects.

Tax increment financing does not impose any additional taxes on property located within the redevelopment district. All property within the district is appraised and taxed the same as any other property. However, if property within the district increases in value as a result of the redevelopment, the resulting increment of additional tax revenue is diverted to pay for a portion of the redevelopment costs.

RECEIVED  
JUL 20 '10  
CITY CLERK OFFICE

**COMMUNITY IMPROVEMENT DISTRICT PETITION**

To the Mayor and City Council  
Wichita, Kansas

Dear Council Members:

- 1) We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows/ provided in **Exhibit 1**:

**IMPROVEMENT DISTRICT**

do hereby petition pursuant to the provisions of K.S.A. 12-6a26 et seq., as amended (the "Act"):

- (a) **General Nature:** That the general nature of the proposed community improvement district ("CID") project, Planeview Sav-A-Lot ("**Project**"), is a **new sixteen thousand-foot grocery store to serve Planeview and the surrounding area**. The undersigned request the City of Wichita to assist the Project by providing community improvement financing in accordance with City of Wichita policy and the Act to finance the construction, maintenance, and procurement of certain improvements, costs and services within the District, which may include, but are not limited to: land acquisition, infrastructure related items, streets, sidewalks, parking lots and facilities, buildings, facilities, tenant improvements, water management and drainage related items, landscaping, lighting, art, water features and other cultural amenities, and the City's financing costs (if any) as well as the City's administrative costs in establishing and maintaining the District.
- (b) **Estimated Cost:** That the estimated cost of the Project is **Two Million Eighty three Thousand four Hundred Thirty Dollars (\$2,083,430)** of which the maximum CID eligible cost is **Two Million Eighty three Thousand four Hundred Thirty Dollars (\$2,083,430)**, exclusive of the cost of interest on borrowed money. See attached "**Exhibit 3**" for a detailed budget.
- (c) **Proposed Method of Financing:** That the proposed Projects be financed through the use of *special* sales tax on a Pay-as-you-go basis, as defined in the Act.
- (d) **Proposed Amount of Sales Tax:** That the proposed amount of Community Improvement District sales tax, if any, shall be **2% for 20 years**, or such lesser number of years as may be required to produce revenues sufficient for the payment of the maximum CID eligible cost identified in (b), above.
- (e) That a map and legal description of the proposed CID are attached hereto as **Exhibit 2**.
- 2) It is requested that the improvement hereby petitioned be made with notice and public

hearing, pursuant to City policy.

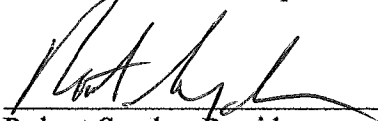
- 3) That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first, and that the signers consent to any assessments to the extent described therein without regard to benefits conferred by the project.
- 4) That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by the owners of 100% of the land area within the proposed district. The Governing Body is requested to proceed in the manner provided by statute and City policy.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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Lot 1, Block 1, the replat of Spencer Gardens Addition to Wichita, Sedgwick County, Kansas

Central Plains Development LLC

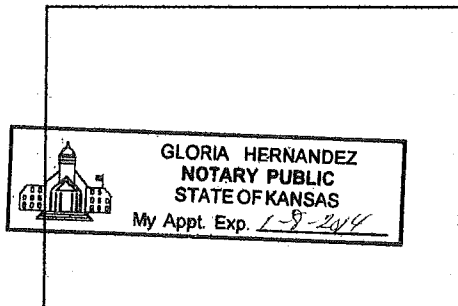
  
Robert Snyder, President


7/19/10  
Date

STATE OF Kansas )  
COUNTY OF Sedgwick ) ss.

This instrument was acknowledged before me on July 19, 2010 by,  
Robert Snyder President of Central Plains Development LLC a Kansas limited liability company,  
on behalf of said Central Plains Development LLC.

Dated: 7-19-10



  
Notary Public  
Print Name GLORIA HERNANDEZ  
My commission expires 1-8-2014

## Exhibit 1

Lot 1, Block 1, the replat of Spencer Gardens Addition to Wichita, Sedgwick County,  
Kansas



# EXHIBIT C Planeview Sav-A-Lot CID



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



### Exhibit 3

#### Sav-A-Lot Pawnee & George Washington Blvd

##### Uses of Funds

Site Work	\$135,000	
Parking Lot	\$174,100	
Sidewalks	\$8,200	
Fire Sprinklers	\$55,000	
Fire Hydrant	\$6,500	
Utility Extension	\$45,000	
Landscaping	<u>\$20,000</u>	
<b>Total Site Work</b>		<u>\$443,800</u>

Building	\$933,060	
Finish	\$217,064	
Architecture/Engineering (7%)	\$80,000	
Contingency (5%)	<u>\$59,506</u>	
<b>Total Building</b>		<u>\$1,289,630</u>

**Cost Not including Land** **\$1,733,430**

**Land** **\$350,000**

**Total Cost** **\$2,083,430**

##### Sources of Funds

Developer Equity	\$150,000
CDBG	\$75,000

**Total needed to be Financed** **\$1,858,430**

Rent: (6.5% Financed for 20 years)	\$956,430
TIF (\$40,000/yr for 15 years)	\$393,000
CID(2% Sales Tax for 20 years)	\$509,000

**Amount Available for Financing** **\$1,858,430**



hearing, pursuant to City policy.

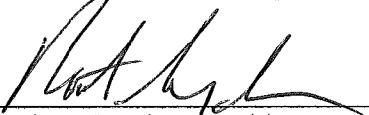
- 3) That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first, and that the signers consent to any assessments to the extent described therein without regard to benefits conferred by the project.
- 4) That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by the owners of 100% of the land area within the proposed district. The Governing Body is requested to proceed in the manner provided by statute and City policy.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
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Lot 1, Block 1, the replat of Spencer Gardens Addition to Wichita, Sedgwick County, Kansas

Central Plains Development LLC

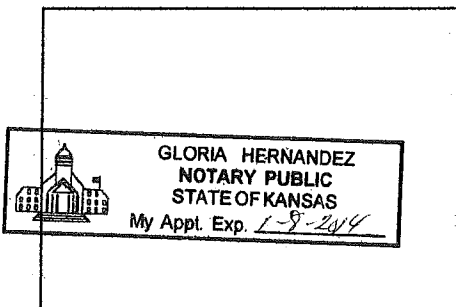
  
Robert Snyder, President


7/19/10  
Date

STATE OF Kansas )  
 ) ss.  
COUNTY OF Sedgwick )

This instrument was acknowledged before me on July 19, 2010 by,  
Robert Snyder President of Central Plains Development LLC a Kansas limited liability company,  
on behalf of said Central Plains Development LLC.

Dated: 7-19-10



  
Notary Public  
Print Name GLORIA HERNANDEZ  
My commission expires 1-8-2014

City of Wichita  
City Council Meeting  
August 3, 2010

**TO:** Mayor and City Council Members

**SUBJECT:** An Ordinance Amendment pertaining to exemption of public property from the prohibition against alcohol consumption - outdoor public property within the WaterWalk area.

**INITIATED BY:** Law Department

**AGENDA:** New Business

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**Recommendation:** Approve first reading of the ordinance.

**Background:** Kansas statutes and the Code of the City of Wichita prohibit the consumption of alcohol on public property. However, K.S.A. 41-719 provides that any city may exempt from this prohibition, by ordinance, any specified property, the title of which is vested in the city. Most of the open area behind the WaterWalk Place and other property scattered throughout the WaterWalk area is property in which title is vested in the City. Accordingly, in order to accommodate community events and other gatherings at which alcoholic liquor will be consumed, an ordinance amendment is necessary to exempt this property from the prohibition against such alcohol consumption.

**Analysis:** Section 4.04.045 of the City Code lists public property that is exempt from the prohibition against consumption of alcohol thereon. The proposed ordinance amendment adds the WaterWalk property to this list. The proposed amendment covers open property only within the designated boundaries. These boundaries expand upon certain outdoor areas which have already been exempted, but due to changes in the configuration of streets and other areas by the WaterWalk construction, new boundaries are proposed by the amendment.

The amendment further provides that the exemption allowing alcohol consumption is valid only during times that a community event or temporary entertainment district has been approved by the Council, or when the written consent of the city manager has been obtained, which will cover gatherings that do not fall under the definition of a community event. These limitations will prevent the open public consumption of alcohol that is not connected to an approved event.

**Financial Considerations:** None.

**Goal Impact:** Enhance the Quality of Life by allowing for a greater variety of events to occur upon the open public property in the proposed exempted area.

**Legal Considerations:** The amendment has been prepared and approved as to form by the Law Department.

**Recommendation/ Actions:** It is recommended that the City Council approve first reading of the ordinance.

**Attachment:** Copy of the proposed new ordinance.

ORDINANCE NO. 48-791

AN ORDINANCE AMENDING SECTION 4.04.045 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXEMPTION OF CERTAIN PUBLIC PROPERTY WITHIN THE CITY FROM THE PROHIBITION AGAINST CONSUMPTION OF ALCOHOLIC LIQUOR THEREON BY VIRTUE OF THE AUTHORITY CONTAINED IN K.S.A. 41-719, AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 4.04.045 of the Code of the City of Wichita, Kansas shall read as follows:

**“Exemptions.** (a) The city, by virtue of the authority contained in K.S.A. 41-719 and amendments thereto, exempts the following properties from any prohibition against consumption of alcoholic liquor on public property contained in K.S.A. 41-719 and amendments thereto, and in Sections 4.04.040, 4.16.020 and 4.16.030 of this Code: CityArts, the education building of the Wichita Area treatment Education and Remediation (WATER) Center, Sports Hall of Fame, Lionel Alford Regional Library, Wichita-Sedgwick County Historical Museum, Century II, the Wichita Mid-Continent Airport, Colonel James Jabara Airport, Cowtown, the Wichita Art Museum, Mid-America All-Indian Center, Lawrence-Dumont Stadium, the Central Branch Wichita Public Library, the Kansas Aviation Museum (Historic Wichita Municipal Airport), Botanica -- the Wichita Gardens, the Hyatt Regency Wichita Hotel and Conference Center, Exploration Place, the Ice Sports Center of Wichita, the Wichita Boathouse, and the La Familia Senior Community Center, Inc. located at 841 W. 21st St. North.

(b) The city, by virtue of the authority contained in K.S.A. 41-719 and amendments thereto, exempts the following properties from any prohibition against consumption of alcoholic liquor on public property contained in K.S.A. 41-719 and amendments thereto, and in Sections 4.04.060, 4.16.020 and 4.16.030 of this Code: the Old Town Farm and Art Market, Nomar International Market, the Old Town Cinema Plaza and any open public property located within the area bounded on the north by the south line of Douglas Avenue from the west line of Main Street to the east bank of the Arkansas River, thence south

to a line designated by the north edge of the Kellogg Flyover, thence east to the west line of Main Street and thence north to the south line of Douglas Avenue to the point of origin. Provided, however, these properties shall be considered exempted only under the following circumstances:

(1) when either a community event or temporary entertainment district has been approved by the City Council, or

(2) when the written consent of the city manager or the manager's designee has been obtained if an activity does not require a community event permit, and

(3) when a license for the sale of alcohol has been issued if such license is necessary."

SECTION 37. The original of Section 4.04.045 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 38. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this 10<sup>th</sup> day of August, 2010.

---

Carl Brewer, Mayor

Attest:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary E. Rebenstorf, Director of Law

Delineated

July 22, 2010

AN ORDINANCE AMENDING SECTION 4.04.045 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXEMPTION OF CERTAIN PUBLIC PROPERTY WITHIN THE CITY FROM THE PROHIBITION AGAINST CONSUMPTION OF ALCOHOLIC LIQUOR THEREON BY VIRTUE OF THE AUTHORITY CONTAINED IN K.S.A. 41-719, AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 4.04.045 of the Code of the City of Wichita, Kansas shall read as follows: “**Exemptions.** (a) The city, by virtue of the authority contained in K.S.A. 41-719 and amendments thereto, exempts the following properties from any prohibition against consumption of alcoholic liquor on public property contained in K.S.A. 41-719 and amendments thereto, and in Sections 4.04.040, 4.16.020 and 4.16.030 of this Code: CityArts, the education building of the Wichita Area treatment Education and Remediation (WATER) Center, Sports Hall of Fame, Lionel Alford Regional Library, Wichita-Sedgwick County Historical Museum, Century II, the Wichita Mid-Continent Airport, Colonel James Jabara Airport, Cowtown, the Wichita Art Museum, Mid-America All-Indian Center, Lawrence-Dumont Stadium, the Central Branch Wichita Public Library, the Kansas Aviation Museum (Historic Wichita Municipal Airport), Botanica -- the Wichita Gardens, the Hyatt Regency Wichita Hotel and Conference Center, Exploration Place, the Ice Sports Center of Wichita, the Wichita Boathouse, and the La Familia Senior Community Center, Inc. located at 841 W. 21st St. North.

(b) The city, by virtue of the authority contained in K.S.A. 41-719 and amendments thereto, exempts the following properties from any prohibition against consumption of alcoholic

liquor on public property contained in K.S.A. 41-719 and amendments thereto, and in Sections 4.04.060, 4.16.020 and 4.16.030 of this Code ~~during such times a community event or temporary entertainment district has been approved by the City Council and when the license for the sale of alcohol has been issued, if such license is necessary:~~ the Old Town Farm and Art Market, Nomar International Market, the Old Town Cinema Plaza and any open public property located within the open area bounded on the north by the Hyatt Regency Hotel and Conference Center, on the south by Lewis Street, on the east by Wichita Street, and on the west by the Arkansas River south line of Douglas Avenue from the west line of Main Street to the east bank of the Arkansas River, thence south to a line designated by the north edge of the Kellogg Flyover, thence east to the west line of Main Street and thence north to the south line of Douglas Avenue to the point of origin. Provided, however, these properties shall be considered exempted only under the following circumstances:

(1) when either a community event or temporary entertainment district has been approved by the City Council, or

(2) when the written consent of the city manager or the manager's designee has been obtained if an activity does not require a community event permit, and

(3) when a license for the sale of alcohol has been issue if such license is necessary.”

SECTION 37. The original of Section 4.04.045 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 38. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Carl Brewer, Mayor

Attest:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

**City of Wichita  
City Council Meeting  
August 3, 2010**

**TO:** Mayor and Council Members

**SUBJECT:** 2010 Fraternal Order of Police Agreement

**INITIATED BY:** Human Resources Department

**AGENDA:** New Business

---

**Recommendation:** Approve the proposed 2010 Memorandum of Agreement between the City and Fraternal Order of Police (FOP) Lodge #5.

**Background:** The City Negotiator and the FOP Lodge #5 have reached an agreement on a Memorandum of Agreement for 2010. The union membership ratified the agreement on July 9, 2010.

**Analysis:** The agreement will be in effect for the period of December 26, 2009 through December 24, 2010. There is no-general pay adjustment in the agreement, but eligible employees will continue to receive their merit increases.

Non-financial changes in the agreement include:

- Change bereavement leave to be consistent with other City employees
- Base lay-offs on inverse order of seniority
- Limit temporary assignments to 90 days
- Add time limits to the grievance process
- Modify the composition of the grievance board.

**Financial Considerations:** The merit increases in the agreement, totaling \$168,068, are already included in the 2011 Wichita Police Department budget.

**Goal Area Impact:** This agreement affects the Safe and Secure Community Goal.

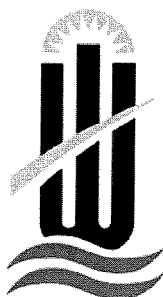
**Legal Considerations:** The Law Department has approved the agreement as to form.

**Recommendation/Action:** Approve the proposed 2010 Memorandum of Agreement between the City and Fraternal Order of Police (FOP) Lodge #5.



**MEMORANDUM OF AGREEMENT**

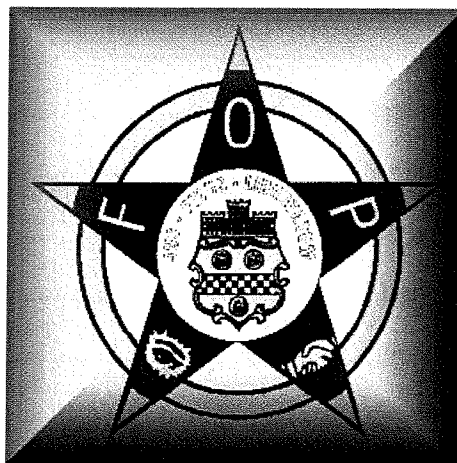
**BY AND BETWEEN**



**CITY OF  
WICHITA**

**THE CITY OF WICHITA, KANSAS**

**AND**



**FRATERNAL ORDER OF POLICE  
LODGE #5, WICHITA, KANSAS, INC.**

**DATE EFFECTIVE: DECEMBER 26, 2009**

**DATE ENDING: DECEMBER 24, 2010**

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The City of Wichita will hereinafter be referred to as "City," and the Fraternal Order of Police, Lodge #5, Wichita, KS., Inc., will hereinafter be referred to as "F.O.P."

## **PREAMBLE**

WHEREAS, the parties hereto desire to maintain the existing harmonious relations; to advance mutual interests in the preservation of public safety, law and order; to promote standards and conditions of employment for police officers of the City of Wichita, Kansas; to achieve harmonious and peaceful adjustment of differences which may arise; and to establish standards for wages, hours, benefits and other conditions of employment.

## **ARTICLE 1**

### **RECOGNITION OF EMPLOYEE ORGANIZATION**

**Section 1.** The City recognizes the F.O.P. as the sole and exclusive representative for the purposes of negotiating collectively with the City pursuant to the Public Employer-Employee Relations Act of the State of Kansas, with respect to wages, hours, benefits and other terms and conditions of employment for all members of the bargaining unit.

**Section 2.** The bargaining unit consists of all employees in classifications listed in Appendix A.

**Section 3.** If any classification in the bargaining unit is retitled, this Memorandum of Agreement shall be construed to include such retitled classification in Appendix A. If any additional classification is included in the bargaining unit, the City and the F.O.P. will meet and confer concerning the terms and conditions of employment.

**Section 4.** This Agreement shall be binding upon all employees in the bargaining unit.

## **ARTICLE 2**

### **MANAGEMENT RIGHTS AND RESPONSIBILITIES**

**Section 1.** The F.O.P. acknowledges that the City and its management have certain exclusive statutory rights and responsibilities which they may not surrender. Except as expressly provided otherwise by this Agreement or by law, the City shall retain its rights to make, amend or execute decisions and policies that are necessary to operate and maintain the City and its programs and to otherwise carry out its lawful rights and responsibilities.

**Section 2.** Except as expressly provided otherwise by this Agreement or by law nothing contained in this Agreement shall circumscribe or modify the statutory right of the City to:

- (1) To determine the services and level of services to be offered by the City;
- (2) To determine the number of employees required;
- (3) To schedule overtime as determined necessary;
- (4) To lay off, terminate, or otherwise relieve employees for lack of work or other legitimate reasons;

- (5) To determine the fact of lack of work, provided that officer safety is not compromised;
- (6) To discipline for just cause;
- (7) To direct the work of its employees;
- (8) To take actions as may be necessary to carry out the mission of the department in emergencies;
- (9) To hire, promote, demote, transfer, assign and retain employees in positions within the Wichita Police Department;
- (10) To maintain the efficiency of governmental operation;
- (11) To determine the method, means and personnel by which operations are to be carried on;

**Section 3.** The above rights, responsibilities and prerogatives are inherent in the City and its management.

**Section 4.** A copy of all department and bureau goals and S.O.P.'s will be delivered to the F.O.P. for review and comment.

**Section 5.** The City of Wichita and the Wichita Police Department create and update policies (i.e. Administrative Regulations, WPD Policies and Regulations) as needed. Occasionally employees will be asked to sign a document acknowledging receipt of the document. An employee's signature will be compelled for receipt of the document only.

### **ARTICLE 3**

#### **EMPLOYEE RIGHTS AND RESPONSIBILITIES**

**Section 1.** The City acknowledges that the employees must possess and exercise a high degree of integrity, courage and sense of responsibility, and are specially trained and skilled in their duties. When it employs these employees, the City does so with the express intent of encouraging a professional attitude on the part of these employees, and of honoring their rights and prerogatives. Correspondingly, the employees are to be governed by the highest ideals of honor and integrity in all of their public and personal conduct in order that they merit the respect and confidence of the public.

**Section 2.** Employees shall have the right to form, join and participate in the activities of the F.O.P. and may refuse to join or participate in any F.O.P. activities.

### **ARTICLE 4**

#### **NONDISCRIMINATION**

**Section 1.** No employee shall be discriminated against because of race, color, creed, national origin, age, sex, religion, ancestry or disability, by either the City or the F.O.P.

If any grievance is filed under this section, and any complaint is filed with any other board, agency or court with concurrent jurisdiction concerning the same incident, the grievance shall be held in abeyance until the other board, agency or court has rendered its decision.

**Section 2.** The City shall not directly or indirectly discourage, deprive or coerce any

employee in the enjoyment of any rights conferred by the laws of Kansas and the United States; and shall not discriminate against any employee with respect to hours, wages or any other term or condition of employment by reason of membership in the F.O.P., or participation in any of its activities, collective negotiations with the City, or institution of any grievance, complaint or proceeding under this Agreement with respect to any terms or conditions of employment.

## **ARTICLE 5**

### **STRIKES AND LOCKOUTS**

**Section 1.** The City shall not institute, authorize, cause, aid, ratify or condone any action to provoke interruption of or prevent the continuity of work normally and usually performed by the employees for the purpose of coercing the employees into relinquishing rights guaranteed under the law.

**Section 2.** The F.O.P. shall not authorize, cause, aid, ratify, condone nor shall any employee take part in, aid, render assistance to, or support any action for the purpose of coercing a change in the conditions, rights, privileges or obligations of employment through failure by concerted action with others to report for duty or failure to work at usual capability in the performance of the normal duties of employment.

## **ARTICLE 6**

### **HOURS OF WORK AND DUTY SHIFTS**

**Section 1.** Employees will receive overtime pay for hours worked in excess of 40 during a work week at the rate of one and one half times the regular rate of pay. Police Sergeants will receive overtime pay for hours worked in excess of 42.5 hours in a week at one and one half times the regular rate of pay. The following paid leaves of absences shall be included in computing hours worked: authorized holidays, injury leave and jury duty. As required by the Fair Labor Standards Act (FLSA) the work week for employees in the bargaining unit is 7:01 a.m. Saturday through 7:00 a.m. Saturday. The normal workweek is five consecutive 8-hour days (8.5 hour for Sergeants), with two consecutive days off, or four consecutive 10-hour days (three consecutive 10.5 hour days and one 11 hour day for Sergeants) with 3 consecutive days off. The City retains the right to schedule overtime work as required.

At the request of an employee and with supervisor approval, an employee may adjust their workday start-time and/or end time to accomplish the following:

- Perform work-related tasks to enhance community safety
  - Conduct surveillances
  - Attend beat team meetings
  - Attend community meetings
  - Take part in neighborhood projects
  - Special enforcement initiatives
  - Other police projects
- Accommodate family or personal appointments

In addition, an employee, with supervisor approval, will be permitted to change their days off within a given work week to accomplish the above listed items. In any event,

employees will not be permitted to work more than 40 hours (42.5 hours for 85 hour pay period employees) a week unless compensated by overtime.

When requested by an employee and authorized by the Chief of Police or designated departmental management representative, time off at the rate of one and one-half (1.5) of the overtime hours worked by an employee may be granted in lieu of overtime payment. An employee shall be allowed to accrue and carry over up to 40 hours of compensatory time. Use of compensatory time shall be subject to management approval, advance notice, and staffing requirements, but shall not be unreasonably denied.

**Section 2.** A 28-day work period is established for the bargaining unit for purposes of administering holidays. The contract effective date and work period is December 26, 2009.

**Section 3.**

(a) Time off with pay shall be granted for eleven authorized holidays; New Year's Day, Dr. Martin Luther King, Jr.'s Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving, Christmas and 2 Personal Holidays.

(b) Probationary employees are not eligible to use Personal Holiday hours until they have completed six months of service. Holidays that occur during an approved leave of absence with pay, except injury leave, are not charged as days of leave taken.

(c) For designated holidays *except* Thanksgiving, Christmas, New Year's Day and Independence Day, the employee shall be granted the actual holiday off when law enforcement activities permit. If an employee is required to work on the holiday, or a holiday falls on a regular day off, the employee shall be given time off to be taken on a day selected by the employee within the 28-day work period in which the holiday falls, as law enforcement activities permit. If an employee cannot take an authorized holiday off within the 28-day work period in which the holiday falls, and is required to work, the employee shall be compensated in addition to the employee's regular pay at time and one-half for the hours worked.

(d) For the Thanksgiving, Christmas, New Year's Day and Independence Day holidays, an employee, who requests it, shall be granted the actual holiday off when law enforcement activities permit. If the holiday falls on a regular day off, the employee shall be given time off to be taken on a day selected by the employee within the 28-day work period in which the holiday falls, as law enforcement activities permit. An employee who works on either the Thanksgiving, Christmas, New Year's Day or Independence Day holiday, shall be compensated in addition to their regular pay at time and one-half for the hours worked. Field officers who are scheduled to work on a premium pay holiday may choose to work that day or request the day off, as law enforcement activities permit.

**Section 4.** The normal workday for Traffic Safety Officers, Police Officers, Crime Scene Investigators, Warrant Officers and Station Clerks shall be eight or ten consecutive hours. The normal workday for Police Sergeants shall be between eight and eight and one half consecutive hours or ten and ten and one half consecutive hours. The normal workday for all other employees, shall be eight or ten consecutive hours. Whenever an employee requests and is approved by the supervisor to work a split shift they shall be allowed one hour of their work day scheduled for travel. The normal workday may be lengthened or shortened as law enforcement activities require. Overtime will be paid in accordance with Section 1 of this article.

**Section 5.** All employees shall be allowed two 15-minute breaks with pay per work day. The parties agree to maintain the current practices for scheduling and length of meal periods. Those employees scheduled for a (9) nine hour day shall receive a (60) sixty minute unpaid meal period.

**Section 6.** The shifts in effect on the effective date of this Agreement shall be continued if at all possible, provided that if the City is required or desires to change such shifts, it shall make every reasonable effort to notify the F.O.P. in order to allow the F.O.P. to have input concerning such changes.

**Section 7.** When an employee appears for a Professional Standards interview or Accident Review Board hearing which occurs outside of the employee's normal working hours, such employee will be paid for a minimum of two hours. However, if the interview time is in conjunction with the beginning or ending of a normal working shift, only the extra time worked will be paid, in lieu of the two hour minimum. Employees shall be paid for all required fitness for duty examinations which occur outside of the employee's normal working hours.

**Section 8.** When an employee is called into work for any reason, other than Professional Standards interview, Accident Review Board hearing or a fitness for duty examination, outside of the employee's normal working hours, the employee will be paid at the overtime rate for a minimum of two (2) hours, regardless of his/her pay status at the time. However, if the call in time is in conjunction with the beginning or ending of a normal working shift, only the extra time worked will be paid, in lieu of the two (2) hour minimum.

## **ARTICLE 7**

### **COMPENSATION**

#### **Section 1. General Statements.**

(a) The City will continue to write job requirements for each position classification within the bargaining unit and will initially determine the classification of each position in accordance with the classification plan presently in effect. Modifications in any classification will be delivered to the F.O.P. in advance of such modification being made to allow input concerning such modification, which will be given due consideration.

(b) The minimum rate of pay for a class shall be paid on the original appointment to the class, provided that (1) the appointment to a higher rate within the wage range for a class may be authorized by the City when it is impossible to recruit qualified persons at the minimum rate for the class, or in recognition of exceptional qualifications of a candidate; and (2) any employee who is promoted shall be advanced to the nearest step in the higher wage range that represents an hourly increase in pay of at least 3.0% over pay the employee was receiving prior to the employee's promotion. Employees who are promoted, demoted or advanced in pay, their anniversary or merit date shall remain the same throughout his/her career.

The Police Recruit classification is established at one range lower than Police Officer. Police Recruits are eligible to participate in one of the health insurance programs offered by the City and receive paid holidays. Police Recruits, in the course of any investigation or a situation involving possible disciplinary action, shall be entitled to F.O.P. representation. A termination of a recruit or probationary employee may not be grieved. Upon satisfactory completion of recruit training, recruits will be advanced to the position of Police Officer and will be eligible for all benefits afforded full-time employees. An exception is made for full-time employees of the

City who become Police Recruits. Full-time employees may continue to participate in the life insurance program, in addition to health insurance and receiving paid holidays. While the employee is in recruit training, use of prior accrued leaves is not permitted, nor will the recruit accrue additional leave. Prior accrued leaves and seniority for accrual of longevity benefits (vacation, sick leave and longevity pay) will be reinstated upon appointment to Police Officer.

(c) The rates of pay for employees subject to this agreement are shown in Appendix B of this contract. Rates of pay reflect the base rate for each employee.

(d) Employees assigned the duties of a higher position shall be compensated at the rate of pay for the higher position for those hours worked if the employee is so assigned a period of time 20 consecutive work days or more in any 12-month period. This provision does not apply to employees on probation.

## **Section 2. Rates of Pay.**

(a) The rate of pay for Police Recruit is one range less than the beginning step of Police Officer, Range 722, step A.

(b) After an employee has satisfactorily completed recruit training, the employee shall be advanced to the position of Police Officer and shall have a twelve-month probationary period.

(c) All employees covered by this agreement shall have fifteen (15) pay steps. Within range increases from Steps A through O shall be based on satisfactory performance and after 12 months of service in grade. Advancement may be granted after exemplary service on the Department Director's recommendation and with the approval of the City Manager. The denial of a step increase shall be considered a grievable matter for commissioned personnel.

(d) Bilingual pay in the amount of \$10.00 per hour for translation, paid in 15 minute increments, in addition to their base hourly rate shall be paid to each officer designated by the Chief of Police. The Chief shall determine which languages, other than English, are necessary to conduct police operations and how many officers will be eligible to receive bilingual pay. An initial test shall be established and administered by the Chief of Police or the Chief's designee to determine competency and eligibility, but only those designated by the Chief of Police shall receive such pay.

(e) Employees in grant-funded special assignments, rather than grant funded positions, shall be paid at the overtime rate for all time working those assignments unless prohibited by the grant.

**Section 3. Longevity Pay.** In consideration of long and faithful service, the City Manager shall authorize payment of longevity pay to the employees in addition to their base pay. Commencing the first full pay period after approval of the contract, employees will become eligible for longevity pay upon the completion of six (6) years total accumulative service with the City. The amount of this pay to employees shall not exceed \$2.00 times the total years of accumulative service per month, e.g., \$2.00 times five years of service equals \$10.00 monthly longevity pay. Upon the completion of eleven (11) years total accumulative service with the City, the amount of pay shall be increased, not to exceed \$4.00 times the total years of accumulative service per month, e.g., \$4.00 times twelve years of service equals \$48.00 monthly longevity pay.

Commencing December 17, 2005, employees will become eligible for longevity pay



upon the completion of six (6) years total accumulative service with the City. The amount of this pay to employees shall not exceed \$2.00 times the total years of accumulative service per month, e.g., \$2.00 times five years of service equals \$10.00 monthly longevity pay. Upon the completion of eleven (11) years total accumulative service with the City, the amount of pay shall be increased, not to exceed \$5.00 times the total years of accumulative service per month, e.g., \$5.00 times twelve years of service equals \$60.00 monthly longevity pay.

**Section 4. Educational Differential.** Commencing the first full pay period after the approval of this agreement, Police Officers, Police Detectives, and Police Sergeants shall receive educational pay in the amount of \$110.00 per month for a baccalaureate or \$135 per month for a masters degree from an accredited college or university. For commissioned officers hired after 12/27/86, a degree must be in Administration of Justice, a related field, or meet the requirements of the department.

Academic degrees earned must be from a degree-granting institution which has been accredited by the American Association of Collegiate Registrars and Admissions Officers and certified as eligible by Human Resources.

Commissioned officers are not eligible for tuition reimbursement from the City of Wichita.

**Section 5. Shift Differential.**

(a) Employees in the bargaining unit required to work 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> shift will receive shift differential pay at the rate of \$.75 per hour in addition to their base pay.

(b) Differential pay will be determined by the shift starting time;

1st Shift:	From 6:00 a.m.	To 10:00 a.m.
2nd Shift:	From 10:00 a.m.	To 5:00 p.m.
3rd Shift:	From 5:00 p.m.	To 11:00 p.m.
4th Shift:	From 11:00 p.m.	To 6:00 a.m.

**Section 6. Specialty Duty Pay.**

Specialty Duty Pay of \$60 per pay period will be provided to officers in the positions listed below. However, an officer that meets more than one of the criteria shall be paid a total of only \$60 per pay period (an officer is not eligible for more than one specialty pay).

1. those officers who are assigned to the Bomb Unit;
2. those officers who are assigned as Canine Officers;
3. those officers who are assigned to the SWAT Team;
4. those officers who are Clandestine Lab Processors;
5. those officers assigned to the Air Section

**Section 7. Stand By and/or Call Back.**

(a) All employees required to carry a pager or any communication device while off duty and not on standby, who are called back to duty, shall not be subject to disciplinary action,

transfer of assignment or changing of days off unless such non-availability becomes detrimental to the employee's ability to perform his/her duty assignment or is in direct conflict with the rules and regulations of the department.

(b) Any employee placed on standby for the purpose of being called back to duty and required to remain at home or at a specific place shall be compensated at the rate of time and one-half for all actual duty time or restricted time.

#### **Section 8. Field Training Officer and Field Training Sergeant Compensation.**

The City agrees to pay each officer who is designated as a Field Training Officer by the Chief of Police an additional 80 cents per hour while actually assigned to the training of newly commissioned officers and newly commissioned reserve police officers. This pay shall occur only during the regular training cycle or remedial training cycle established for such new officers and/or during the time Field Training Officers are assigned to the Training Bureau. The City agrees to pay each Sergeant who is designated as a Field Training Sergeant 70 cents per hour while actually assigned to supervise the training of newly commissioned officers and newly commissioned reserve police officers. This pay shall only occur during the regular training cycle or remedial training cycle established for such new officers by the Chief of Police and/or during the time Field Training Sergeants are assigned to the Training Bureau.

#### **Section 9. Court Appearance.**

Employees may elect one of the following two options when subpoenaed for Municipal Court:

1. Employees may contact the Court Liaison Officer before their scheduled court time and leave a pager, cell or home phone number where they can be reached for two (2) hours after their scheduled court time. If employees are not contacted by the Court Liaison Officer within two (2) hours after their scheduled court time, they will be released from their subpoena.
2. Employees may contact the Court Liaison Officer thirty (30) to sixty (60) minutes after their scheduled court time. At that time, employees will be released or not released from their subpoena. If employees are not released from their subpoena, they may:
  - a. Agree to call-back at a certain time;
  - b. Ask the Court Liaison Officer to call back at a certain time; or
  - c. Agree to report to Court.

Off-duty employees will have fifty (50) minutes to report to Court starting from the time they are ordered or agree to report.

Employees may use the time awaiting a determination from the Court Liaison Officer as they choose.

#### **Compensation**

Off-duty employees will be compensated from the time they are ordered to Court and the time spent in Court thereafter. Employees will be paid a minimum of two (2) hours after any Court appearance.

### **Section 10. Rotation Pay – Shift Differential.**

Within the investigations division there are positions for police officers that are limited in duration and are designed to allow officers from the field services division to learn about the investigative function by spending time working in the investigations division. These positions are considered rotation investigative assignments. While officers are assigned to these positions, they will continue to receive shift differential paid in their previous assignment. This provision will not apply to officers temporarily assigned to the investigations division for other reasons (i.e. administrative, light duty, etc.)

### **Section 11. Annual Fitness Test.**

All employees will be given the option of taking an annual fitness test. Those individuals who take and pass the test will receive a \$100.00 bonus for each year in which they pass the test. The requirements for the test will be recommended by a joint committee of two members from the F.O.P. and two members from police administration. The committee's recommendations will be subject to approval by the Chief of Police.

### **Section 12. Canine Officers**

Canine Officers shall work a nine (9) hour work day, with the tenth (10<sup>th</sup>) hour of each scheduled work day being devoted to the training, care and maintenance of their canines. When canine officers are on paid leave they shall be charged for nine (9) hours of leave time per day but shall be paid for ten (10).

## **ARTICLE 8**

### **CHECKOFF AND PAYROLL PROCEDURE**

**Section 1.** Whenever duly authorized by any employee on a form or forms appropriate for such purpose and consistent with the regulations established by the Human Resources Department of the City, payroll deductions shall be made and paid in accordance with such form or forms for any or all of the following purposes:

- (1) Donations to the Friendship Fund;
- (2) Premiums for employee health, dental and life insurance benefits;
- (3) Police Benefit Fund for commissioned police officers only, as defined by the Benefit Fund by-laws
- (4) Deferred Compensation;
- (5) Employee Organization Dues; and
- (6) Deduction to the Wichita Federal Municipal Employee's Credit Union.

**Section 2.** The authorization form or forms will include a provision that an employee may terminate the deduction for F.O.P. dues upon written notice to the City and the F.O.P. during the months of March and September.

## **ARTICLE 9**

### **EMPLOYEE BENEFITS AND ALLOWANCES**

Police Recruits are not eligible for any employment benefits except health insurance. Benefits and allowances become effective when the Police Recruit is classified as Police Officer.

**Section 1. Retirement and Pension Funds.** Employees shall come under the retirement systems as set forth by the City of Wichita in effective ordinances and charter ordinances. The bargaining unit employees agree to be bound by any changes in the retirement systems that are approved by a majority vote of all employees covered thereunder.

(a) The City will post pensionable pay categories on the City web portal so to provide information about the pension benefits to employees and provide contact information so that employees can contact the Board of pensions to obtain any information needed regarding their pensions.

(b) If the Pension Board revokes the disability pension of any former bargaining unit member for the reason that the member is no longer disabled, the department must rehire that member at the rank, pay step and seniority that member held at the time of his retirement, except that seniority shall include time spent in retirement.

(c) In order to be eligible for rehire, pursuant to paragraph (b) above, the retiree must:

(1) Successfully complete the application process; and

(2) If a disciplinary investigation was pending at the time he/she was awarded a disability pension, the retiree must have cooperated in that investigation. Such retirees shall retain all of their grievance rights under this contract at the time of the imposition of any discipline.

**Section 2. Medical and Hospitalization Insurance.** The City will extend to all employee groups the same health insurance program(s) available to all full-time City Employees. For those participating in the City plan, the City will pay 80% of the health insurance premium of the lowest cost plan offered by the City. The employee will pay 20% of the health insurance costs of the lowest cost health insurance plan offered by the City and additional costs of any other health plan the employee group selects. Participation in the health insurance program is optional with each employee.

**Section 3. Life Insurance.** The City agrees to provide a group life insurance in the amount of two times the employee's base annual salary, rounded up to the next higher thousand (up to a maximum of \$150,000). The City and employees shall share equally in the cost of the life insurance plan. The life insurance program is optional.

**Section 4. Wichita Police Benefit Fund Association.** The City recognizes the existence of the Wichita Police Benefit Fund Association, and recognizes the right of all commissioned officers to belong to the same, subject to the by-laws of the Wichita Police Benefit Fund Association.

**Section 5. Automobile Insurance.** The City shall provide liability insurance protection for each employee covered by this Agreement during authorized operation of a City vehicle or equipment. Any legal representation shall be provided by the insurer at no expense to the employee or pursuant to Section 2.62.100 et. seq. of the City Code. The department will complete State accident reports in officer involved accidents only when required by State reporting criteria.

**Section 6. Uniforms and Equipment.**

(a) The City shall furnish or reimburse an employee for all required equipment and

initial issue of uniforms the employee is required to possess by virtue of the employee's employment with the City. Replacement or renovation of issued leather equipment, except shoes, and boots, which have become unserviceable through fair wear and tear shall be done at no cost to the employee's uniform and equipment allowance. Replacement of bulletproof vests, which have become unserviceable through fair wear and tear, or at the expiration of the manufacturer's warranty, shall be done at no cost to the employee's uniform and equipment allowance.

(b) Police Officers, Police Detectives, Police Sergeants, Traffic Safety Officers, Crime Scene Investigators, Warrant Officers and Station Clerks shall be allowed a clothing allowance up to a maximum of \$650 in department credit or vouchers in accordance with department policy.

- (1) Uniformed employees may expend up to one-half of the uniform and equipment allowance for civilian attire each year.
- (2) Police Detectives may expend their total uniform and equipment allowance for either uniform items or civilian attire according to individual requirements.
- (3) No cash payments or carry over credit will be given for any under expended portion of the annual uniform and equipment allowance.
- (4) Police Officers who are in assignments which are expected to last at least four (4) months and which require civilian clothing shall be allowed to expend their total uniform and equipment allowance for either uniform/equipment items or civilian attire according to individual requirements.
- (5) "All employees assigned to the Special Weapons And Tactics (SWAT) team, Clandestine Lab, or Explosive Ordinance Disposal (EOD) Unit shall be allowed a one time expenditure of 75% of their annual uniform and equipment allowance for the purchase of personal SWAT team, Clandestine Lab, or Explosive Ordinance Disposal Unit related equipment not issued by the City. Thereafter, SWAT team, Clandestine Lab, and EOD Unit members shall be allowed to spend up to a maximum of 50% of their annual uniform and equipment allowance on personal SWAT team, Clandestine Lab, or EOD related items not issued by the City."
- (6) Officers may use the full uniform and equipment allowance at any time from January 1 through November 30 of each year.

(c) The City shall repair or replace uniforms, including leather goods, civilian attire, and prescription eyewear damaged or destroyed in the line of duty. The employee who suffers the damage to equipment described above will submit a claim with a complete report of circumstances surrounding the incident, including the police case number, to the Commander of the Support Services Division through channels who will rule on this claim in writing within five days. Under no circumstances will the City be responsible for damages to any equipment when it is determined that the employee was negligent or that the damage was not the result of in-line-of-duty police activities.

(d) While on duty in uniform or plain clothes, any member of the F.O.P. may wear the

F.O.P. pin sold by the F.O.P. Grand Lodge to its members. The pin shall be worn on the left front pocket flap of the uniform.

(e) Employee retiring from service may retain their badge provided they agree that the badge will be sealed or encased preventing its official use. The retiring employee may pay for the cost of the badge from his/her uniform allowance.

(f) Employees retiring from service, except for medical disability for psychological reasons, may be able to purchase their duty weapon at the fair market value. In order to purchase the weapon, the purchase must be in accordance with all applicable laws, including sales, waiting periods and licensing. A qualified employee may expend his/her unspent clothing allowance to purchase their duty weapon.

**Section 7. Travel and Business Expense.** Employees shall be reimbursed for all authorized travel and business expense in accordance with the City's administrative policies and regulations covering such advancements and reimbursements.

## **ARTICLE 10**

### **LEAVES OF ABSENCE**

#### **Section 1. General Statements.**

(a) Leaves of absence with pay include: Vacation, sick (including maternity), well-day, injury, emergency, civil and other leave with pay. Leaves of absence without pay include: Sick (including maternity), educational, military and other leave without pay.

(b) All full-time employees who have completed recruit training and are represented by the F.O.P. earn benefits.

(c) An employee must be in pay status while on leave of absence to accumulate benefits, except that seniority credit may be accrued while on military leave without pay. When an employee is promoted, demoted or transferred, all sick and vacation leave remains to the employee's credit and is transferred with the employee.

(d) Vacation leave will be earned on hours in pay status, exclusive of overtime, and will be calculated at the time the payroll is processed. Base hours for computing vacation leave are 2,080 per year for employees of the unit except for Police Sergeants which is up to 2,210 per year. All requests for leave of absence shall be made in writing in advance of the beginning date to the immediate supervisor, except that requests for sick leave, injury leave and emergency leave shall be made pursuant to the requirements of the sections dealing with those respective leaves. Leave, with or without pay, is to be reported on the Employee Time Record in actual hours of work and actual hours of leave.

**Section 2. Annual Vacation Leave.** Employees entering the service of the City earn vacation leave on the basis of credited full-time employment. Police Recruits do not earn vacation leave.

(a) The rate at which vacation leave is earned is determined by the start-work date or adjusted start-work date, except:

Employees with prior creditable employment are not eligible to earn vacation leave based on their adjusted start-work date until after completion of two years reemployment.

(b) All requests for vacation leave will be approved by departmental seniority within the Police Department.

(c) Vacation leave for employees of the unit is earned at the following rates:

<u>Years of Service</u>	<u>80 Hour Employees Hours per Year</u>	<u>Hours Accrued per Pay Period</u>	<u>85 Hour Employees Hours per Year</u>	<u>Hours Accrued per Pay Period</u>
Less than 5	96	3.6923	102.0	3.9231
5	104	4.0000	110.5	4.2500
7	112	4.3077	119.0	4.5769
8	120	4.6154	127.5	4.9038
9	128	4.9231	136.0	5.2308
10	136	5.2308	144.5	5.5577
12	144	5.5385	153.0	5.8846
14	152	5.8462	161.5	6.2115
16	160	6.1538	170.0	6.5385
18	168	6.4615	178.5	6.8654
20	176	6.7692	187.0	7.1923
25	200	7.6923	212.5	8.1731

(d) Vacation leave may not be taken in advance of vacation earned, nor prior to completion of six months satisfactory service. Employees must have satisfactorily completed six months of their probationary appointment before being eligible to take vacation or be paid for terminal vacation.

(e) An employee who goes on military leave for extended active duty or is terminated will be paid for any unused vacation leave by adding the total sum due to the employee's last payroll check. In the event of an employee's death, any vacation pay due will be included in the final payroll check.

(f) Vacation leave is scheduled in the department according to the policies established by the Department Director. Vacation may not be taken in excess of the hours appearing on the payroll stub nor in increments of less than thirty minutes. The Department may not cancel a vacation which has been scheduled unless the emergency mobilization plan is in effect.

(g) Employees are allowed to accumulate and carry forward each year 240 hours (255 hours for Sergeants) of vacation leave. Employees will be required to use or lose vacation earned in excess of 240 hours (255 hours for Sergeants) before the end of the pay period in which the anniversary of their full-time (i.e., not limited) employment date occurs.

(h) An employee who is called back to duty or subpoenaed to appear in court on police business during the employee's vacation leave shall be granted additional vacation leave equal to one day for each full day or partial day of vacation leave actually lost due to travel and appearance or duty time. At the option of the employee, the employee may receive pay at straight time for those days rather than taking the days off. In addition, the City shall make and pay all necessary travel arrangements and expenses for the employee to report as required and to

return to employee's vacation. If the employee has not received personal service on a subpoena from the court and the employee is out of state on authorized vacation and is called back to court, the employee will receive pay at the rate of time and one half for time actually spent in court with a two hour minimum, regardless of any other leave time in the pay period, in addition to replacement of vacation time for every day or partial day actually lost due to travel and appearance or duty time.

### **Section 3. Sick Leave.**

(a) **Accrual.** Upon appointment to the position (except Police Recruit), employees shall accrue sick leave at the rate of 1.8462 hours per pay period or 48 hours per year (1.9615 hours per pay period or 51 hours per year for sergeants) for the first five years of creditable service. Beginning year six and through year fifteen of creditable service, sick leave will be accrued at the rate of 3.6923 hours per pay period or 96 hours per year. (3.9231 hours per pay period or 102 hours per years for sergeants). Beginning year sixteen of creditable service, sick leave will be accrued at the rate of 4.3077 hours per pay period or 112 hours per year. (4.5769 hours per pay period or 119 hours per year for sergeants).

Employees with prior creditable service are eligible to accrue sick leave benefits based on their adjusted start work date after two years of continuous service from the date of rehire.

(b) **Sick Leave Use.** Sick leave may be used for personal illness, off-the job injury, dependent illness including paternity leave, and enforced quarantine.

- (1) **Dependent Illness.** Sick leave may be used for illness of members of the employee's immediate family. Immediate family is defined as spouse, children (including stepchildren) parent, and any relative living in the employee's home. In no event may the employee charge in excess of forty-eight (48) hours per payroll year for dependent illness.
- (2) **Enforced quarantine** in accordance with community health regulations.
- (3) A probationary employee will not be paid for accrued sick leave used during the first six months of service. Payment for accrued sick leave used during the first six months will be made the pay period following completion of six months of satisfactory service. Payment for sick leave for other than probationary employees is in accordance with established policies previously defined. The accumulation of sick leave is unlimited.

(c) When taking sick leave, an employee shall give notice to a supervisor by telephone or messenger thirty minutes prior to the employee's scheduled time to report for duty. Upon return to work, the employee shall file a report on a form furnished by the City stating the reasons for the absence. When an employee has been on sick leave for five (5) consecutive work days, the City may require the employee to be examined by a physician it designates. The City may require a physician's statement anytime sick leave abuse is suspected. The burden of proof rests with the City to show abuse in the grievance process.

(d) A leave of absence shall be granted for maternity upon request. Such request must be presented in writing to the employee's immediate supervisor, setting forth a date such leave is to begin, as soon as that date can be determined by the employee and the employee's physician.



Maternity leave shall be charged against accrued sick leave, and the Department Director or the Human Resources Director may require the employee to be examined by a physician of the City's choice. If maternity leave extends beyond the employee's accrued sick leave, leave may be granted in accordance with policies governing sick leave without pay.

(e) An additional day of leave (8 hours for 40 hour, 5 days per week employees, or 10 hours for 40 hour, 4 days per week or up to 10.5 hours for Police Sergeants) shall be granted to an employee who has completed the previous payroll year as a full-time employee and who did not report more than 24 hours of sick leave, or up to 25.5 hours for Police Sergeants, in the preceding payroll year. Any employee who completed the previous payroll year beginning December 16, 2006 as a full-time employee and who did not use any sick leave hours during the payroll year will receive ONE additional day of leave (8 hours for 40 hour, 5 days per week employees, or 10 hours for 40 hour, 4 days per week or up to 10.5 hours for Police Sergeants). Well day leave must be taken in increments of not less than four hours with prior approval of the immediate supervisor. Well day leave is granted the second pay period following the payroll year, is noncumulative and is not charged against accrued leaves.

(f) An employee shall be eligible for sick leave without pay when the employee has exhausted all regular sick leave and vacation leave, provided the maximum sick leave without pay shall not exceed 60 calendar days. If an employee has used the employee's vacation leave on account of sickness, the Department Director may grant a leave of absence without pay as provided in Section 13 of this article.

(g) Sick leave may also be used by an employee under the circumstances specified in Sections 4 of this article.

#### **Section 4. Injury Leave.**

(a) During recruit training the City will pay authorized Workers Compensation benefits to a Police Recruit injured during training.

(b) After appointment to Police Officer, the City will pay benefits to the injured employee over and above the authorized Workers' Compensation benefits sufficient to allow the employee to receive up to the amount of the employee's full pay check during the first 90 days of disability.

(c) After 90 consecutive days, the employee will be paid according to the terms of the Workers' Compensation Act until released to return to work and use sick leave and/or vacation leave as needed above the Workers' Compensation benefit to allow the employee to receive a full pay check.

(d) All injuries, including heart and lung disease, will be considered and defined in accordance with the Workers' Compensation Act of the State of Kansas and the interpretive cases arising thereunder. The City will provide all employees who file a workers' compensation claim with a fact sheet regarding their rights and the City's responsibilities under State workers' compensation laws.

(e) Recurring leave of absence related to a previous injury shall be considered one and the same injury if the injury occurs within 365 days, subject to administrative analysis and diagnosis of the injury reporting physician. However, if recurring leave relating to a previous injury is required after one year (365 days) from date of release by the physician, such leave will be treated as a new injury case.

(f) The Department Director shall provide all personnel in the F.O.P. with a list of physicians certified by the City to handle cases coming under the Workers' Compensation Act, herein referred to as a "certified physician." In the event of noncritical injury, the department shall refer the employee to a certified physician for medical attention. In the event of critical injury, appropriate arrangements for emergency treatment shall be made and a certified physician shall be called to be in charge of the case unless such action may result in a delay that would be detrimental to the injured employee, in which case the department shall authorize the most expeditious care and treatment possible.

(g) Any employee who suffers a work related injury subject to this Section and who consults with a physician without authorization will receive reimbursement for the unauthorized consultation as allowed by the Kansas worker's compensation statutes

(h) Notwithstanding the foregoing, if a Police Officer, Police Detective, or Police Sergeant sustains, in the line of duty and not during secondary employment, (1) any injury which is peculiar to police work or (2) any injury while performing a function which is peculiar to police work, which causes the employee to be unable to perform the employee's duty, the employee shall continue to be paid by the City on the same basis as the employee was paid before the injury with full benefits and no deduction from any accumulated leave or overtime accumulation during the time the employee is unable to perform the employee's duty as a result of the injury, but not longer than one year from the initial date of injury.

At any time during the period for which continuing compensation is required by this provision, the City may order, at the expense of the City, medical examination of the injured person to determine the degree of disability. During this period of disability, the injured person shall not be employed in any other manner with or without monetary compensation. Any person who is employed in violation of this paragraph forfeits the continuing compensation provided by this provision from the time such employment begins. Any salary compensation due the injured person from Workers' Compensation, or any salary due the employee from any type of insurance which may be carried by the City, shall revert to the City during the time for which continuing compensation is paid to the employee under this provision.

(i) Any use of the FMLA during injury leave will be at the sole discretion of the employee. If the employee is unable to perform the employee's duties after one year from the date of the initial injury, then the employee may be placed on FMLA leave by the employer.

#### **Section 5. Bereavement Leave.**

(a) Eligibility. In the event of a death in an employee's immediate family, the employee may be allowed a leave of absence with pay up to a maximum of five (5) work days within the two week period immediately following the death of an immediate family member. Immediate family member is defined as an employee's spouse, children, step-children, parents, stepparents, state-approved foster child, or any relative living in the employee's home. For the death of a father-in-law, mother-in-law, brother, sister, grandparents, grandchildren, daughter-in-law, or son-in-law the employee may be allowed a leave of absence up to a maximum of three (3) work days to be taken within the two week period immediately following the death of any of these persons. This leave must be approved by the Division Commander and is not charged against any leave accumulation. In the event the employee must travel out of state, the employee shall be allowed up to two additional days of leave, chargeable to the employee's vacation accrual or sick leave accrual.

(b) An employee who is unable to work because of a death in the immediate family must notify a supervisor by telephone or messenger, prior to the employee's scheduled time to report.

**Section 6. Educational Leave.** Educational leave of absence without pay may be granted to an employee not to exceed 12 months. Course work shall be related to a law enforcement career. Requests shall be submitted to the Department Director in writing, and must be approved on the basis of the City's policy.

While on educational leave, without pay, no additional seniority is accrued.

**Section 7. Professional Conferences and Meetings.**

(a) Leave with pay may be granted in accordance with City policy to attend professional conferences and meetings, or to visit other cities in the interest of the City.

(b) It is acknowledged by both parties to this agreement that the role of professional standards investigators is to serve as fact finders regarding internal administrative investigations. To this end, these personnel are expected to have a high level of training regarding such investigations. Therefore, all investigative personnel assigned to this bureau will attend an applicable internal affairs training conference (such as labor relations information systems or Thomas & Means), within the first six (6) months of their assignment unless exigent circumstances exist. All investigative personnel will also attend the subsequent training seminars at an interval not to exceed 24 months unless exigent circumstances exist. The FOP agrees that it will pay one-half (1/2) of the expenses for such training incurred by active members of the FOP. All personnel assigned to the professional standards bureau will attend the shift steward training hosted by the F.O.P.

(c) Whenever possible any employee upon promotion to the rank of Captain shall attend immediate shift steward training class hosted by the F.O.P. that falls on the date following that promotion unless exigent circumstances exist.

**Section 8. Jury Duty.** Upon receipt of an order requiring an employee to report for jury duty, the order will be shown to the immediate supervisor who shall receive the required permission from the Bureau Commander. An employee shall receive the employee's regular hourly rate for all scheduled work hours lost when the employee is required to serve as a member of a jury. Fees received by an employee while serving on a jury shall be turned over to the City Treasurer. An employee will not be required to return money received as reimbursement for travel and meals while serving on jury duty, and an employee is not required to return money received while serving on jury duty on regular days off, holidays or vacation.

**Section 9. Court Appearance in Official Capacity.** Court appearance in an official capacity is considered working time. During an employee's regular working hours, no leave of absence is necessary for such court appearance. If such court appearance is during off-duty hours, the employee shall be compensated in accordance with Article VI, Section 6. In either event, when the employee is compensated by the City for court appearance, the employee shall turn over to the City Treasurer any witness fees received.

**Section 10. Court Appearance in Personal Matters.** If an employee is involved in

court as a party in a case, the employee may be granted a leave of absence without pay or, at the employee's option, may have such time off charged to accrued vacation leave.

**Section 11. Military Leave.** Requests for military leave will be handled in accordance with Title 38, U.S. Code, Section 2021 et. seq..

**Section 12. Time Off for F.O.P. Business.**

(a) If requested by the FOP President, the Lodge Vice-President and Lodge President shall be assigned to the day shift with Saturday and Sunday off during their term in office. If this was requested, the City may return those officers to their original shift upon completion of their term in office. There shall be one chief lodge steward assigned to each bureau and one assigned to investigations/support. Whenever a vacancy occurs in one of those chief lodge steward positions, the department will grant the lodge's request to transfer individuals in order to fill any such chief lodge steward vacancy. The department will transfer chief lodge stewards to those bureaus where they are needed.

(b) The F.O.P. President may appoint members of the bargaining unit who will be given time off with pay to conduct contract negotiations. The maximum number of collective hours of pay the City will provide for contract negotiations will be 300 hours. Nothing in this Memorandum of Agreement shall prohibit the F.O.P. or the City from being allowed to have outside assistance in contract negotiations.

(c) The F.O.P. President and two (2) members designated by the F.O.P. President shall be granted time off with pay to conduct F.O.P. business upon request to their supervisors. Such requests shall not be unreasonably denied.

(d) F.O.P. representatives shall record on an authorized form only the amount of time used for F.O.P. business in excess of thirty (30) minutes in an eight (8) hour day. Said form shall be signed by the F.O.P. representative and a supervisor. The supervisor shall forward the original form to the Chief's office.

(e) Upon approval of the Police Chief, or the Chief's designee, an F.O.P. representative may attend squad meetings periodically during negotiations to brief represented employees on the status of negotiations. Such briefings will not exceed ten minutes in length and will be confined to a factual report on the status of negotiations.

(f) Members of the F.O.P. Lodge #5 Executive Board, who are city employees, and on duty shall be granted reasonable time to attend the regular Lodge meeting each month, and the regular Executive Board meeting each month. A maximum of four (4) Shift Stewards who are working the shift of the regular Lodge meeting each month shall be granted reasonable time to attend the meeting, if the staffing permits. Anyone attending these meetings while on duty shall be subject to call from the Emergency Communications Dispatchers or any Police Supervisor at any time during the meeting. Lists of the Executive Board Members and the Shift Stewards will be provided to the Chief of Police every six (6) months or when a change in the previous list occurs. The Chief will also be given written notice at least fifteen (15) days in advance of such meetings.

**Section 13. Other Leave of Absence.** The Department Director may grant leaves of absence without pay to any employee up to 30 calendar days for any personal matter or emergency for good cause, except, such leave of absence without pay will not be granted until all vacation leave is exhausted.

## **ARTICLE 11**

### **SENIORITY**

**Section 1.** Police Officers, Station Clerks and Warrant Officers shall serve a probationary period of 12 months. Traffic Safety Officers and Crime Scene Investigators shall serve a probationary period of 6 months. They shall have no seniority rights during this period, but shall be subject to all other clauses of this Agreement. All employees who are not laid off or discharged during the probationary period shall be known as full-time employees, and all employees will be given an equal opportunity to become full-time employees. When an employee acquires seniority, the employee's name shall be placed on the seniority list established by the Department Director. "Departmental seniority shall be measured by service in any bargaining unit position covered by this agreement. Members of the bargaining unit shall not receive past service credit or other seniority credit for service outside of the bargaining unit." If length is equal, then time in grade shall control. If time in grade is equal, then relative seniority shall be determined by the lowest department I.D. number. Seniority for Sergeants will be determined by time in grade.

**Section 2.** The seniority list shall be made current at the end of each quarter. As soon as possible thereafter, the City will make available for review at least one copy at each police facility with a copy delivered to the F.O.P.

**Section 3.** All lay-offs shall be in inverse order of seniority of classification by Division. Laid off employees shall be recalled in order of seniority.

**Section 4.** Seniority shall be broken if: (1) the employee quits; (2) the employee is properly discharged; (3) the employee is laid off and not rehired within 18 months; or (4) the employee is permanently disabled.

Should an employee be re-employed and covered by the F.O.P. Agreement, the employee will regain prior service seniority after being re-employed for one (1) complete year.

**Section 5.** None of the provisions of this article shall be permitted to conflict with any obligation of the City under any Federal or State law concerning military service.

**Section 6.** Except as provided in Section 1 of this Article an employee transferring into the bargaining unit from some other City department shall retain the employee's accumulated seniority for purposes of vacation accumulation, sick leave accumulation and longevity pay.

**Section 7.** Days off and vacations shall be determined by department seniority relative to all employees covered by this Agreement within the same work unit.

**Section 8.** An employee's days off may be subject to change if the employee fails to meet reasonable minimum performance standards established in writing by the Chief of Police or Division Commander. A change in days off made pursuant to this section shall be subject to Article 14.

**Section 9.** Upon being transferred into a different assignment, an employee may invoke seniority, as defined in section seven (7) of this article, only when an opening in days off becomes available.

## **ARTICLE 12**

### **PROMOTIONS AND TRANSFERS**

#### **Section 1. Promotional Policy**

Wichita Police Department Policy 216 details the promotional process for the ranks of Detective/Sergeant/Lieutenant. The parties hereby incorporate by reference the current department promotion policy for the ranks of Detective, Sergeant and Lieutenant. They specifically acknowledge that the procedures and requirements set out the current policy cannot be modified or changed in any manner without the express written agreement of the City and the Lodge.

In the event a Crime Scene Supervisor position comes open, the City of Wichita promotional process will be followed in selecting a suitable candidate to fill the position. Current Crime Scene Investigators will have first consideration but the Chief of Police reserves the right to open the process to candidates outside of the department.

**Section 2.** When an employee is promoted, or transferred, the employee will be notified in writing of such transfer or promotion at least seven days in advance of the promotion or transfer. In the event a transfer must be made due to extenuating circumstances (requiring a case-by-case review), the seven day notice may not apply. Transfer is defined as a non-emergency shift change, division change or assignment change which can be reasonably expected to last for a period of one month or longer.

**Section 3.** Vacancies in the Field Services Division and the Traffic Section shall be posted for seven (7) calendar days to allow personnel to apply to the respective Bureau Commanders where the vacancy exists. Bureau Commanders shall consider the needs of the department, the qualifications, work history, and seniority of the applicants during the selection process. Any special considerations or preferences of personnel to fill the vacancies shall be listed at the time the position is advertised.

**Section 4.** There will be a bi-annual (April and October) selection process for each specialized assignment, (SCAT, Community Policing and School Resource Officers). For all other specialized assignment there shall be a selection process as needed. This list will remain in effect for one full year, for purposes of this section; specialized assignments are anything except basic patrol, and Sergeant positions. There will be standardized grid matrix for specialty units.

**Section 5.** No employee may be placed in a temporary assignment for more than ninety (90) days. On the ninety-first day, the position shall be considered vacant and must be filled in accordance with this agreement.

## **ARTICLE 13**

### **DISCIPLINARY PROCEDURES**

**Section 1.** If an employee commits misconduct on or off duty, disciplinary action may be taken against the employee. "Misconduct" occurs when an employee, by act or omission, neglects duty, fails to execute a lawful order, violates published departmental regulations, fails to follow departmental policy, or commits a public offense. "Disciplinary action" is either corrective or punitive administrative action and includes the following:

(a) A documented verbal counseling or written reprimand, which shall be considered "minor disciplinary action;" and

(b) Demotion, suspension or dismissal, which shall be considered "major disciplinary action."

**Section 2.** There shall be Professional Standards that conducts administrative investigations. Administrative investigations shall involve the investigation of complaints against an employee by citizens or fellow employees not amounting to a violation of the criminal laws or alleged violations of the criminal laws where only an administrative penalty may be imposed.

(a) When minor disciplinary action is imposed on an employee, a report of disciplinary action will be placed in the employee's departmental personnel file. The report will state the factual details of the misconduct, the disciplinary action imposed, and the approval of the appropriate command for such disciplinary action. The employee shall be provided with an executed copy of the report. The employee shall have 30 days to file a written response to the report. The response shall be placed in the employee's departmental personnel file and shall be attached to the report.

(b) When an employee is charged with misconduct which does or reasonably may result in the imposition of major disciplinary action, the employee shall be notified in writing of the charge within ninety-six (96) hours from the time that the charge/complaint is processed, the Department shall send written notification to the employee. The notification shall state the factual details of the accusations of the misconduct, the order, regulation, policy or law, of any alleged violation; the names and addresses of all witnesses; and all other material facts known to the City and its employees. The employee shall have the right to inspect and request copies of the record of the Professional Standards file of the employee. All records, reports, statements and information contained in the Professional Standards files are confidential and may only be used by the employee in a grievance, as described in Article 14, regarding discipline imposed on the matter which is the subject of records, statements and information obtained from the Professional Standards file.

(c) Whenever an employee has received discipline, within ninety-six (96) hours of the issuance of any such discipline, the Department shall provide to the F.O.P. the entire Professional Standards file, including all witness statements and reports contained therein, and any other material in the department's possession which relates to the charges or conduct which is the basis of the discipline for the purposes of determining whether a grievance should be filed over the discipline. This inspection and review shall be subject to the following limitations:

- (1) All information learned from the review of the files and documents will be treated as confidential and may only be used by the F.O.P. in conjunction with the grievance procedure under the contract or in defense of any claim that the F.O.P. failed to meet its duty of fair representation owed to the employee/grievant.

- (2) In order to review the aforesaid files and documents, the Lodge President, Vice-President, Chief Lodge Steward or other designated member of the Executive Board will be required to produce a document signed by the officer in question requesting that the President and Chief Lodge Steward be given access to these files and documents. It is agreed that if the officer involved does not give such consent for review of the files and documents by these F.O.P. officers, any discipline imposed upon the officer as a result of the incident under investigation shall not be considered in the database upon which the City relies in determining appropriate discipline.
- (3) All letters of discipline which are issued to employees shall contain the following statement for the disciplined employee to sign: I request that a copy of this disciplinary notice be sent to the FOP and that the FOP shall be given access to the professional standards investigations resulting in discipline of me, and my personnel file.  
\_\_\_\_\_ Yes    \_\_\_\_\_ No
- (4) If a grievance is filed over the proposed discipline, which proceeds to a hearing before the Grievance Board, the F.O.P., shall be provided copies of the aforesaid files and documents to be used by the FOP in conjunction with the grievance procedures under this contract or in defense of any claim that the FOP failed to meet its duty of fair representation owed to the employee grievant.. It is agreed that these documents are confidential and must be treated in a confidential manner, and may not be used for any other purpose than the Grievance Board hearing. It is further agreed that after the grievance procedure has concluded, the documents will be returned by the F.O.P. to the City.

(d) An interview of an employee under investigation for misconduct which reasonably may result in the imposition of major disciplinary action shall be recorded in a manner chosen by the investigator. The employee and the FOP shall be entitled to record the interview electronically or in writing. If the recording device for the FOP, professional standards or the employee fails for any reason, all parties will provide copies of their recordings to one another upon request.

(e) An employee who is the subject of an internal investigation may request that a representative of the lodge be present during the interview. The representative of the lodge shall not obstruct the interview. The lodge representative shall represent the employee in protecting the employee's rights. The lodge representative may ask for clarification of questions.

If the lodge representative cannot be made available at the designated time and location, the lodge shall be obligated to provide an alternative representative, and the interview shall be delayed until a representative can be made available, overnight if necessary.

(f) Attendance by a representative of the F.O.P., during the interviews of employees, within the bargaining unit, will not obstruct administrative investigations. To that end, the City of Wichita and F.O.P. Lodge No. 5 agree that the following procedures will be followed:

- (1) A representative of the F.O.P. may attend an interview only at the option of



the employee. The option can be exercised after the employee has been advised that the representative's attendance may affect the confidentiality of the interview and that any communications the employee has with the representative outside of a Garrity-protected interview, may not be privileged as to third parties.

- a. The F.O.P. representative may attend interviews of employees about whom the complaint or allegations of misconduct are made and which may result in discipline. A representative of the F.O.P. may attend interviews of employees who are witnesses.
- b. The employee is responsible for contacting the F.O.P. about an impending interview.
- c. Administrative investigators will not interview the F.O.P. representative to determine whether the employee's statements during the interview are consistent with his or her statements in private.
- d. Administrative investigations of traffic accidents by departmental personnel assigned to investigate the accident and/or supervisors assigned to the scene of the accident will be exempted from this requirement.
- e. Supervisors will be allowed to conduct a preliminary investigation of alleged misconduct to include a preliminary interview with the employee without F.O.P. representative present to determine whether an official internal investigation should be initiated.
- f. At the request of the employee who is the subject of the investigation, an F.O.P. representative may be present in the pre-polygraph examination interview of that employee under the condition that the F.O.P. representative is only an observer and may make no comments or ask questions during the interview. During the polygraph examination, the F.O.P. representative shall be excluded from the room.

(2) The F.O.P. will designate representatives who may represent employees during administrative interviews.

- a. Representatives will be available on all shifts.
- b. The representative must currently be an active member of the F.O.P. Lodge No. 5 and within the bargaining unit.
- c. The representative cannot be an employee who is or may be involved in the matter being investigated. If there is a possibility that the representative may be interviewed or may be involved in connection with the matter being investigated, a different representative shall be assigned.
- d. Failure of the F.O.P. to make a representative available at the time of the scheduled interview, if the employee who is the subject of the investigation fails to provide the FOP with timely notice, will not cause the interview to be postponed.

(3) The representative's role is limited to enforcement of the contract and employee's rights. The representative may not obstruct the investigation or the interview.

- a. Any breaks are solely at the interviewer's discretion and shall be at reasonable intervals (approximately one break an hour).
- b. In the event the representative repeatedly obstructs the interview, the interview will be temporarily halted and the Chief of Police and the FOP President (or their designees) will be contacted and advised of the situation. The Chief of Police and the FOP President (or their designees) will work to resolve the matter. If they agree the matter is resolved the lodge representative may continue the representation of the employee being interviewed. If there is not agreement that the matter is resolved the lodge representative may not continue and will be replaced with a substitute representative.
- c. The professional standards interviewer will, at various times during the interview, ask the representative of the FOP if he/she has any questions, comments or clarifying points to make. At the conclusion of the interviewer's questions, the employee and the representative may take a reasonable break to consult and, thereafter, the employee make an additional factual statement or clarification.
- d. The interview of any employee shall be at a reasonable hour, preferably when the employee is on duty, unless the circumstances of the investigation dictate otherwise, all as determined by the department.
- e. The interview shall take place at a location designated by the investigating officer, usually at a police facility.
- f. The employee shall be informed of the rank, name and command of the interrogating officers as well as the rank, name and command of the officer in charge of the investigation and identity of all persons present during the interview.
- g. The interview shall be completed as soon as possible. Time may be provided for personal necessities, meals, telephone calls, and rest periods, as appropriate.
- h. No offensive language, coercion or promise of reward as an inducement to answering questions shall be directed at the employee. Nothing herein is to be construed as to prohibit the investigating officer from informing the employee that his conduct can become the subject of disciplinary action.
- i. All Professional Standards interviews shall be recorded. There will be no off the record conversation during an interview, except by mutual agreement. All recesses called during an interview shall be noted in the record.
- j. If major disciplinary action is imposed on an employee pending the determination of a complaint of misconduct and that complaint

subsequently is determined to be unfounded or non-sustained or the employee is exonerated, the disciplinary action shall be revoked and the employee shall receive all rank, pay, and benefits lost as a result of the disciplinary action.

**Section 3.** The Department Director shall establish a system for the receipt, investigation and determination of complaints by any person against employees which may result in the filing of criminal charges. That system shall include procedures to insure protection of an employee's Federal and State constitutional and statutory rights.

**Section 4.** Prior to a change in the systems established pursuant to Sections 2 and 3 of this article, the Department Director shall notify the F.O.P. of the proposed change. The F.O.P. may comment in writing to the Department Director on the proposed change within ten work days of notification. The F.O.P.'s comments shall be given due consideration.

**Section 5.** Whenever an employee is ordered to place his signature upon any document or report for disciplinary action, it is understood that said employee is merely acknowledging receipt of said document and does not indicate whether or not the employee agrees or disagrees with the document, report or disciplinary action.

**Section 6.** Employees receiving discipline shall have the option of forfeiting the appropriate number of accrued paid vacation days in lieu of the unpaid suspension, not to exceed ten (10) working days per calendar year.

**Section 7.** Complaints. In cases where individuals have made false complaints against any member of the Department, which have been deemed unfounded, the Department will review such matters to determine whether it will prosecute such individuals involved.

**Section 8.** Just Cause. Employees may only be disciplined for just cause.

## ARTICLE 14

### GRIEVANCE PROCEDURE

**Section 1.** A grievance is defined as any dispute involving the application or alleged violation of any provision of this Agreement. A work day is defined as Monday through Friday, excluding holidays. Verbal warnings shall not be considered grievable matters.

**Section 2.** Any grievance as defined by Section 1 of this article shall be settled in the following manner:

(a) The grievance shall be taken in writing to the employee's Division Commander within ten (10) work days after the grievance occurs by the aggrieved employee and/or the F.O.P. The Division Commander will render a decision within five (5) work days. In cases involving disciplinary action, a grievance must be filed within ten (10) days of receipt of the official notification of the discipline imposed. Copies of the Division Commander's decision will be sent to the employee and the F.O.P.

(b) Should the grievance not be resolved by the Division Commander, the employee and/or the F.O.P. may take the grievance to the Department Director. The employee and/or the F.O.P. representative must initiate the grievance in writing to the Department Director within five (5) work days from the date of receipt of the action of the Division Commander. The Department Director will render a decision within five (5) work days. Copies of the Department Director's decision will be sent to the employee and the F.O.P.

(c) Should the grievance not be resolved by the Department Director, the employee and/or the F.O.P. representative may appeal the Department Director's decision to the Employee Relations Officer within five (5) work days of the receipt completion of the Department Director's written decision. The Employee Relations Officer shall require of the Department Director to submit a letter setting forth specific reasons for the Department Director's decision. This letter must be submitted to the Employee Relations Officer within five (5) work days of his receipt of the appeal.

(d) The Employee Relations Officer shall, within fifteen (15) work days after receipt of the appeal, contact the F.O.P., the employee, and all supervisory personnel concerned, and attempt to resolve the grievance. The written results of the findings of the Employee Relations Officer will be given to the employee, the F.O.P., and to the Human Resources Director within fifteen (15) work days of the receipt of the appeal.

(e) If the grievant and/or F.O.P. is not satisfied with the findings of the Employee Relations Officer, they may request a hearing before the Grievance Board within five (5) work days of the receipt of the Employee Relations Officer report.

**Section 3.** The Grievance Board shall consist of the following individuals:

- (1) One person appointed by the F.O.P.
- (2) One person appointed by the City.
- (3) A third person, who shall act as chairperson, and who shall be selected from a panel provided by the FMCS.

Within fifteen (15) working days of the request for a Grievance Board Hearing, the parties shall jointly and in writing, petition the Federal Mediation and Conciliation Service

(FMCS) to submit a list of the names of five (5) competent and available arbitrators, from which the parties shall select the neutral chairperson. If a panel provided by the FMCS is unacceptable to either side, a new panel may be requested by the side rejecting the panel within five (5) working days of the receipt of the rejected panel. Each side may exercise its right to reject only once per grievance. Within ten (10) working days after receiving such a list, the FOP President and an official of the City, or their respective designees, shall alternately strike one (1) name from said list, until only one (1) name remains, and the person whose name remains on said list shall become the neutral Chairperson. The order of striking names shall be determined by the toss of a coin.

In all hearing conducted before the Grievance Board, the Administrative Rules of Evidence shall apply.

All Grievance Board Hearings shall be conducted within sixty (60) days of the selection of the Chairperson, unless the Grievance Board has granted a continuance. In any event, all Grievance Board Hearings must be conducted within one hundred twenty (120) days of the request for a Grievance Board Hearing.

All fees, costs and expenses of the Chairperson shall be shared equally by the City and the Union.

**Section 4. The burden of proof shall be allocated as follows:**

(a) In all disciplinary cases, the City shall bear the burden of proving just cause for the discipline imposed.

(b) In all contract interpretation cases, the party alleging the contract violation shall bear the burden of proof.

**Section 5.** The Employee Relations Officer shall act as secretary of the Grievance Board and shall handle all correspondence. The Grievance Board shall draw all necessary rules and regulations for conducting its fact-finding hearings. The rules and regulations shall provide for the grievant and the City to:

- Present evidence supporting their position
- Call witnesses
- Cross examine witnesses
- Be represented by counsel at the hearing; and
- Provide for a record of the hearing

Said rules and regulations shall be reviewed and approved by the F.O.P. and the City. The recommendation of the Board shall be forwarded to the City Manager within ten (10) work days of the conclusion of the hearing.

**Section 6.** The City Manager shall render a decision within twenty (20) business days of receipt of the Grievance Board's recommendation and his decision is final. In the event the City Manager reverses or modifies the recommendation of the Grievance Board, he shall provide to

the grievant and to the F.O.P., in writing, the reason(s) for his actions and the specific finding(s) upon which his actions were based. If the City Manager does not render a decision within this time, the decision of the grievance board becomes final.

**Section 7.** In cases of termination, the grievant may proceed directly to step (d) of this procedure within five (5) work days from the employee's notice of termination.

**Section 8.** Any letter of disciplinary action to be placed in an employee's personnel file shall specify the date when such letter is to be removed from such file (provided no subsequent discipline has been imposed during said period) or if appropriate specify that the letter is permanent and shall not be removed from the file.

**Section 9.** Whenever employees are scheduled by their supervisor and/or any other superior within their department, to attend a meeting concerning disciplinary action, or before a Safety Review Board, the person scheduling them shall advise them that they have the right to have a F.O.P. representative attend the meeting with them. The employee will be allowed an appropriate amount of time for scheduling a F.O.P. representative, overnight if necessary.

**Section 10.** The parties agree that after a grievance has been filed by the Lodge, neither the City nor any of its representatives will meet with the grievant in reference to the incident without prior notification to the F.O.P. The F.O.P. shall be present at any grievance meeting.

## **ARTICLE 15**

### **WORKING CONDITIONS AND EQUIPMENT**

#### **Section 1.**

(a) The City shall make available, at its expense, 600 rounds of ammunition each year for each employee covered by this Agreement who is required regularly to carry a weapon in the line of duty, for use by employees desiring to improve or maintain proficiency with their weapons.

(b) The City shall provide 4800 rounds of submachine gun ammunition and 1200 rounds of ammunition for each sniper rifle in the arsenal, and an additional 600 rounds of handgun ammunition for each member of the tactical team.

**Section 2.** The firing range shall be open and available in accordance with department procedure for those who desire to become more proficient with their weapons. The parties agree that all employees are encouraged to practice.

## **ARTICLE 16**

### **MISCELLANEOUS PROVISIONS**

**Section 1.** The City shall provide space on the bulletin boards in the Wichita Police Department for the F.O.P. to post notices. All notices shall be posted by an officer of the F.O.P. Notices relating to the following matters may be posted without the necessity of receiving the Department Director's prior approval:

- (a) Recreational and social functions.
- (b) Notices of meetings.
- (c) Appointments.
- (d) Notice of elections.
- (e) Results of elections.
- (f) Reports of committees.
- (g) Rulings or policies.

These items are restricted to F.O.P. matters.

**Section 2.** An employee may review the employee's departmental personnel file upon request and may also review the employee's personnel file retained in the Human Resources Department of the City.

**Section 3.** The President of the F.O.P., or designee, shall be a permanent member of the Wichita Police Department Nominating Committee.

#### **Section 4. Group Orientation.**

During the course of training in recruit classes, police recruits will be advised of the representative status of the F.O.P. In addition, a fact sheet prepared by the F.O.P. and approved by the Department Director, which describes the goals and objectives, voluntary nature of membership, procedures for making and revoking allotments for the payment of F.O.P. dues, the procedure for processing grievances, and the coverage and scope of this Agreement, may be provided. Such information shall not be presented in a way that could be construed as critical of the City or in a way that indicates that membership in the F.O.P. is mandatory. The F.O.P. shall be allowed one hour with the recruit class to distribute copies of the fact sheet and this Agreement, and to discuss organizational goals, policies, procedures and this Agreement.

### **ARTICLE 17**

#### **INTERPRETATIVE PROVISIONS**

**Section 1.** If any provision of this Agreement should be held invalid by any court of competent jurisdiction, or if compliance with or enforcement of any provisions should be restrained by any tribunal, the remainder of this Agreement shall not be affected thereby and the parties shall enter into negotiation for the sole purpose of redrafting a mutually satisfactory replacement for such provision so affected.

**Section 2.** Should any change be made in any State or Federal law or regulation, which would be applicable and contrary to any provision herein contained, then such portion of this Agreement shall be automatically terminated but the remainder of the Agreement shall remain in full force and effect. The parties shall immediately commence to negotiate for the purpose of redrafting a mutually satisfactory replacement for such provision so affected.

**Section 3.** All practices and conditions not covered by this Agreement shall continue to be governed, controlled and interpreted by reference to the City charter, ordinances, and rules and regulations.

**Section 4.** Should the City wish to reclassify any position listed in this Agreement which would result in a decrease in the pay range or an increase in position responsibilities over and

above the present duties for an affected pay range, either party may reopen negotiations for the purpose of negotiating base wages for the newly classified positions. All other provisions of the contract shall remain the same unless reopened by mutual agreement of both parties.

## **ARTICLE 18**

### **SUBSTANCE TESTING**

All employees shall be subject to random drug and alcohol testing as agreed upon by the City and the Lodge April 2007.

## **ARTICLE 19**

### **DURATION AND TERMINATION**

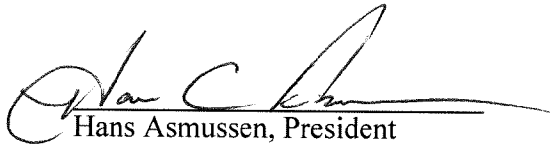
**Section 1.** This Agreement shall take effect on **DECEMBER 26, 2009**, and shall continue in full force and effect through **DECEMBER 24, 2010**.

**Section 2.** The parties agree that the negotiations for a successor Agreement shall commence as soon as the parties reasonably and mutually agree. All parties shall endeavor to begin negotiations for **2011** by August 1, 2010



IN WITNESS THEREOF, THE CITY has hereunto set their hands.

For the Fraternal Order  
of Police

  
Hans Asmussen, President

For the City:

\_\_\_\_\_  
Robert Layton, City Manager

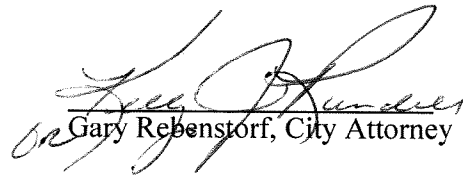
This Agreement was approved by The Honorable City Council this \_\_\_\_\_

\_\_\_\_\_  
Carl Brewer, Mayor

Attest:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

  
Gary Rebenstorf, City Attorney

## APPENDIX A

Station Clerk

Warrant Officer

Crime Scene Investigator

Police Recruit

Police Officer

Police Detective

Police Sergeant

For purposes of this contract, commissioned personnel are defined as Police Officers, Police Detectives, and Police Sergeants. Non-commissioned personnel are defined as Traffic Safety Officers, Station Clerks, Warrant Officers and Crime Scene Investigators.

APPENDIX B 2010 - Effective December 26, 2009

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Station Clerk	710	14.9835	15.3581	15.7421	16.1356	16.539	16.9525	17.3763	17.8107	18.256	18.7124	19.1802	19.6597	20.1512	21.1713
Warr. Officer	712	16.9054	17.328	17.7612	18.2053	18.6604	19.1269	19.6051	20.0952	20.5976	21.1125	21.6403	22.1813	22.7359	23.8869
Crime Scene	714	18.1161	18.569	19.0332	19.509	19.9968	20.4967	21.0091	21.5343	22.0727	22.6245	23.1901	23.7699	24.3641	25.5976
Recruit	722	19.077													
Police Officer	723	19.9759	20.4753	20.9871	21.5118	22.0496	22.6009	23.1659	23.745	24.3387	24.9471	25.5708	26.2101	26.8653	28.2254
Detective	724	21.9461	22.4947	23.0571	23.6335	24.2243	24.83	25.4507	26.087	26.7391	27.4076	28.0928	28.7951	29.515	31.0092
Sergeant	725	24.1341	24.7374	25.3558	25.9897	26.6395	27.3055	27.9881	28.6878	29.405	30.1401	30.8936	31.666	32.4576	34.1008

**City of Wichita  
City Council Meeting  
August 3, 2010**

**TO:** Mayor and City Council

**SUBJECT:** Amendment to Agreement for I.A.T.S.E. Local 190 (All districts)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** New business

-----

**Recommendation:** Approve the Amendment to the Agreement for International Alliance of theatrical Stage Employees (I.A.T.S.E. Local 190).

**Background:** In April of 1991 the City entered into an agreement with the I.A.T.S.E. Local 190, which outlined the nature of work, wages and hours of service for stagehand employees for Century II. The I.A.T.S.E. Local 190 has requested an increase in current fees to cover the additional costs for workers compensation insurance, liability and unemployment insurance.

**Analysis:** Rates at Century II for theatrical and performing services employees have not increased in the past two years and are at least five dollars below the rates established by competitive venues in the Wichita Metro area. In order for Century II to remain competitive with other facilities and to retain skilled theatrical stagehand services for their clients, negotiation with the I.A.T.S.E. Local 190 to establish competitive rates, was completed. A rate increase of 25.5% per employee designation was agreed upon whereby the following rates would apply beginning June 1, 2010.

<u>Current Rates</u>	<u>Head</u>	<u>Assistant</u>	<u>Rigger</u>
Hourly rate	\$18.66	\$16.86	\$ 35.54
Performance fee	\$62.47	\$56.39	\$125.60
Performance hourly fee	\$20.82	\$18.80	\$ 41.87
<u>New Rates</u>	<u>Head</u>	<u>Assistant</u>	<u>Rigger</u>
Hourly rate	\$20.66	\$18.86	\$ 37.54
Performance fee	\$69.13	\$63.10	\$125.60
Performance hourly fee	\$23.04	\$21.03	\$ 41.87

**Financial Consideration:** Implementation of the new rates will result in the above hourly rates being charged to Century II clients. These fees are paid directly to the I.A.T.S.E. Local 190 and are not part of the Century II fee structure.

**Goal Impact:** This project impacts the Quality of Life and ensures that citizens receive a positive return on all of their quality of life investments.

**Legal Considerations:** The Law Department has approved the Amendment to the Agreement as to form.

**Recommendation/Action:** Approve the Amendment to the Agreement for International Alliance of theatrical Stage Employees (I.A.T.S.E. Local 190).

**Attachment:** Original Agreement between City and I.A.T.S.E. 190  
Amendment to Agreement between City and I.A.T.S.E. 190

## AMENDMENT TO AGREEMENT

THIS AMENDMENT TO AGREEMENT is entered into by and between the City of Wichita, Kansas, hereinafter referred to as "City", and local 190 of the International Alliance of Theatrical Stage Employees, hereinafter referred to as "Local 190".

WITNESSETH:

WEREAS, the parties have heretofore entered into an agreement with Century II on the 29<sup>th</sup> day of January, 1991, which they wish to amend.

NOW, THEREFORE, IT IS AGREED as follows:

1. Section V (Wages) of said Agreement is amended by changing the percentage in the first sentence thereof from twenty four percent (24%) to twenty five and one half percent (25.5%). Implementation of the new rate would cause hourly rates charged to the client as follows:

	HEAD	ASSISTANT	RIGGER
Hourly rate	\$20.66	\$18.86	\$ 37.54
Performance fee	\$69.13	\$63.10	\$125.60
Performance hourly fee	\$23.04	\$21.03	\$ 41.87

2. All other provision of said Agreement not herein amended are reaffirmed by the parties and shall continue in full force and effect according to the terms thereof.

3. These amended changes shall take effect June 1, 2010.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate the day and year first above written.

**CITY OF WICHITA, KANSAS**

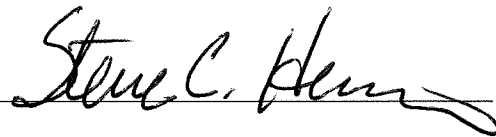
**I.A.T.S.E. LOCAL 190**

A KANSAS CORPORATIN

By \_\_\_\_\_

Carl Brewer, Mayor

By \_\_\_\_\_



President, I.A.T.S.E. Local 190

ATTEST:

APPROVED AS TO FORM:

By \_\_\_\_\_

Karen Sublett, City Clerk

By \_\_\_\_\_



Gary E. Rebenstorf, Director of Law

Effective 4.15.91.

4/8/91

1

AGREEMENT

THIS AGREEMENT is entered into by and between the City of Wichita, Kansas, hereinafter referred to as "City" and Local 190 of the International Alliance of Theatrical Stage Employees, hereinafter referred to as "Local 190."

WITNESSETH:

WHEREAS, City operates the Century II facility, hereinafter referred to as "Auditorium;" and

WHEREAS, Local 190 is a labor organization of theatrical employees whose members are skilled in performing the services necessary for presentations to be exhibited in the Auditorium; and

WHEREAS, the producers of such presentations should be informed of the labor costs which they will incur for skilled theatrical employees in the job classifications that the producer will need to properly exhibit a presentation.

NOW, THEREFORE, IT IS AGREED:

SECTION 1 - DEFINITIONS

As used in this Agreement, the following words shall have these meanings:

"Director" shall be the Century II Director appointed by the City Manager of City.

"Performance" shall be the art of exhibiting or presenting to the general public or a particular audience a presentation.

"Producer" shall include any entity, whether it be a person, group of persons, association, firm or corporation that undertakes a presentation at the Auditorium.

"Theatrical Employee" shall include those employees referred by Local 190 of the job classifications competent to do the work, labor, or render a service to a producer at the Auditorium as defined in Section II herein.

"Yellow Card System" is a method of indicating the acceptable number of skilled workers required for union touring stage productions.

SECTION II - NATURE OF WORK

Local 190 shall furnish skilled theatrical employees to all producers of presentations exhibited on the stages of the

Auditorium (which shall include such arena events as circuses, ice shows, rodeos and similar activities) and perform work, labor, and render services which shall include: packing in and out; building scenery; hanging draperies; rigging, installing, operating and maintaining all stage equipment, including curtains, screens, switchboards, amplification systems, electrical systems, spotlights, floodlights, effect lights, decorative lights, and dimmers; installing acoustical bandshells; installing, operating, recording, maintaining during a presentation and removal of all sound and video recording, production and reproduction equipment.

Local 190 acknowledges that it has been notified that there is the presence of asbestos containing materials in certain areas of the Auditorium and that theatrical employees working in those areas will be required to comply with the City of Wichita's asbestos operations and maintenance plan in effect at the time the work is performed.

Local 190 shall be responsible for any damage done to City property through its employees by willful neglect or improper operation.

### SECTION III - ADVANCE COMMITMENT

Local 190 is affiliated with the International Alliance of Theatrical Stage Employees and nothing in this contract shall be construed to interfere with any obligation owed to such international alliance.

### SECTION IV - NUMBER OF THEATRICAL EMPLOYEES FOR PRESENTATIONS

If a presentation is operating under the "yellow card system" the number of skilled theatrical employees in the appropriate classifications as are needed for a performance shall be agreed upon between Local 190 and the producer.

Every producer of a presentation on an Auditorium stage shall not employ fewer than a minimum crew of theatrical employees, which shall consist of a head carpenter, electrician, sound person and property person. If a presentation requires no sound amplification, then the minimum crew will not include the sound person. If a presentation requires no stage or set changes and/or is presented in front of the curtain, then the minimum crew may be reduced to one employee. It is further understood that a minimum of one employee will be required at any time the house sound amplification is used on stage and one employee for each follow spotlight. The exception to the above shall be in instances of presentation by non-profit institutions which have as their purpose the training of students in the knowledge and expertise of the theatre arts. In these instances the minimum crew of theatrical employees shall be one employee at any time equipment or props are being hung or removed from hanging, lights being set, during all dress and technical rehearsals and all



performances unless a greater number of employees are required by the Director. For each paid technician under this exception (excluding one technical director) the minimum crew will be increased by one theatrical employee. This exception shall apply in the Theater only.

The number of required theatrical employees must be mutually agreed to by both the producer and the representative of Local 190; otherwise, the Director of Century II will make the final determination.

Local 190 has the legal responsibility of insuring that the necessary FICA, Federal and State income taxes are withheld from theatrical employees wages. Therefore, the representative of Local 190 may determine whether a producer of a presentation is equipped to place the theatrical employees on the producer's payroll. Otherwise, the producer shall, as a condition precedent to presenting a performance in the Auditorium, designate a payroll company approved by Local 190 as its agent for the purpose of paying the theatrical employees employed by the producer and withholding the FICA, Federal and State income taxes. Said payroll company shall pay the theatrical employees their wages in accordance with Section V - Wages herein, and in addition thereto the producer shall pay an additional twenty-three percent (23%) of the total amount paid to the theatrical employees to the payroll company for providing such payroll services for the producer. Local 190 shall designate an approved payroll company in writing to the Director.

#### SECTION V - WAGES

Local 190 shall furnish theatrical employees to producers upon the terms and conditions herein contained in the following classifications, at the wage scales herein provided, plus twenty-three percent (23%) of the total wages of the theatrical employees.

	<u>Hourly Rate</u>	<u>Performance Rate</u>
(1) Head carpenter	\$ 12.00	\$ 40.45
(2) Head electrician	12.00	40.45
(3) Head property person	12.00	40.45
(4) Head sound person	12.00	40.45
(5) Head floor operator	12.00	40.45
(6) Assistants to above Classifications	10.85	38.15
(7) Camera operator	12.00	40.45
(8) Spotlight operator	12.00	40.45
(9) Truckloader	12.00	N/A

#### SECTION VI - HOURS OF SERVICE

Theatrical employees shall receive the hourly rate for the work, labor or services which are necessary to get a presentation

ready for its performance or to restore the stage after the performance, and shall receive the performance rate for each performance, which shall not exceed three hours past scheduled starting time. The performance rate shall include theatrical employees ready and available one half hour before the performance at no additional cost. At a performance longer than three hours, the hourly rate shall prevail at one-third the performance scale, for such time as exceeds the regular three hours.

If a performance or call is split into two segments by a dining period of more than one hour, then each segment of the presentation call shall be classified as separate.

Theatrical employees shall receive pay for a minimum of four hours whenever called on the job. If such call includes a dining period such period will be considered as part of the minimum call. Time and one-half the regular hourly rate shall prevail after they have worked eight hours in any twenty-four hour period for any one producer. Twice the regular hourly rate shall prevail after fourteen hours in any twenty-four hour period. At any time that a minimum of eight hours are worked and eight hours off duty not granted, the time and one-half hourly rate shall prevail for any one producer.

All hours worked by theatrical employees on the traditional holidays known as New Year's, Independence, Labor, Thanksgiving, and Christmas days, and after twelve o'clock midnight and before eight o'clock a.m. shall be paid at one and one-half times the applicable rate.

Theatrical employees shall be allowed one hour dining period following every five hours of work. If theatrical employees are not allowed the dining period after five hours of work they shall receive double and one-half their prevailing rate of pay after the fifth hour of work, and such double and one-half time will continue until they have been allowed the dining period. The union representative will keep the promoter informed of an approaching meal penalty, and provide possible alternatives to avoid the penalty. If the required work does not allow for a normal meal break, then the following options are available to the promoter.

a. The producer may provide food for the stage crew, in which case they remain on the clock, and the meal period will be reduced to 30 minutes.

b. Allow one of the members of the crew to go out and bring food in for the entire crew, in which case they remain on the clock, and the meal period will be reduced to 30 minutes.

The Director reserves the right to request specific individuals to work certain events based on having a particular skill or work experience, and to exercise general control over all operations in the Auditorium which includes the conduct of

theatrical employees while on the premises of the Auditorium. If at any time the Director, by specific written notice, advises that a theatrical employee is unsatisfactory, that employee will no longer be allowed to perform work in the Auditorium until such time as the Director advises the Business Agent for Local 190 otherwise in writing.

The Business Agent of Local 190 will provide the Director, upon request, a monthly report of all theatrical employees' activities in the Auditorium for the preceding month in a form acceptable to the Director.

#### SECTION VII - NONDISCRIMINATION

Local 190 agrees that it will comply with the requirements of City of Wichita Administrative Regulation #23 and the Revised Nondiscrimination and Equal Employment Opportunity Statement for Contracts and Agreements, attached hereto as Exhibit "A" and incorporated herein by this reference.

#### SECTION VIII

This Agreement shall become effective on the 15<sup>th</sup> day of April, 1991, and shall remain in force and effect until 60 days following written notice by either party to the other party of an intent to amend, modify or terminate the Agreement.

**City of Wichita  
City Council Meeting  
August 3, 2010**

**TO:** Mayor and City Council

**SUBJECT:** Design Council Review Process (All districts)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** New business

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**Recommendation:** Approve the revised Design Council Review Process.

**Background:** The Design Council was created in 2000 to act as an advisory board to the City Council and the City Manager. The Board is comprised of 15 design professionals and represents architects, landscape architects, artists, engineers and the community at-large. The board was created to review projects that impact the visual appearance of the built environment in the City and to make recommendations to the City Council. This process ensures that the highest design standards are met and the economic resources allocated for the built environment are being used to their best advantage.

**Analysis:** In 2008, the City Council approved the Design Review Process and Consultant Guidelines. The revised process clarifies when projects need to be reviewed by the Design Council and provides design criteria for design consultants early in the process. This revised process allows more opportunity for the City Council to review projects and provide their input and direction to the designers and staff. This creates a more effective method of advising consultants, City staff, and project managers on projects that impact the quality of life for all citizens of Wichita. The Design Council reviewed and recommended the revisions to the Design Review Process and Consultant Guidelines.

**Financial Consideration:** None

**Goal Impact:** This project impacts the Quality of Life and ensures that citizens receive a positive return on all of their quality of life investments.

**Legal Considerations:** None

**Recommendation/Action:** Approve the revised Design Review Process.

**Attachment:** Design Review Process and Consultant Guidelines



# Design Council

## CONSULTANT GUIDELINES

### **Introduction:**

The Design Council is 15 design professionals who advise the City Council and City Manager on design standards related to all public improvements. The City Council and City Manager, wishing to improve the visual qualities of the built environment appoints this group of design professionals to advise the Mayor, City Council, the City Manager and staff on matters of design and methods of accomplishing a more beautiful city. The fundamental responsibility of the Design Council is to guarantee that the citizens of Wichita receive the highest level of design quality in the built environment possible within the limits of bureaucracy, budget and time.

The Design Council is to advise and make recommendations to the City Manager, City staff, Mayor and City Council on matters of aesthetic quality related to the built environment. The goal is to improve the quality of life for all citizens and visitors in Wichita through the highest design standards.

### **Special Consideration Projects:**

This process is a cooperative attitude toward city departments. The operative tone is one of a workshop atmosphere where all involved seek a finer product and uses an “integrated design team” approach for projects requiring “special consideration”.

**“Special consideration” is defined as projects that occupy high visibility locations, possess monumental scale, reside within the central business district, or establish an identifying “place,” neighborhood or planning document within the City. Projects identified to need special consideration will *require* an integrated design team approach.**

**“An integrated design team approach encourages design that stems from the pursuit of enhancements not as “add-ons” but rather as fundamental elements of a structure planned during the early phases of a project by approaching design, architecture, engineering, landscaping and art at the same time.”**

### **DESIGN TEAM:**

The City envisions a design program that considers the highest design standards in every neighborhood; along our rivers, within our parks, on our public transportation systems and city streets, in our municipal buildings and our public spaces. The City challenges designers that are selected for public projects to create projects that find innovative solutions using our economic resources to their best advantage. A successful collaboration provides a framework for design professionals to find solutions that could not have been conceived of individually.

# Design Review Process

## CIP and Design Criteria Process

- **The Capital Improvement Program List of Projects**

The City Manager, members of City Council and their local District Advisory Boards (DABs) make recommendations for projects that should be part of the Capital Improvement Projects (CIP). City Staff develops a preliminary budget amount for each project.

- **Identifying Projects for “Special Consideration**

City Departments working with staff that is assigned to the Design Council will identify projects requiring special consideration. These projects will be presented to the Design Council for their recommendations and criteria. After this approval, staff will develop budgets that are in keeping with this identify. Projects which meet these criteria will require an integrated design approach. Not all projects will meet the definition for special consideration or require an integrated design team approach but will still need review.

City Staff will then meet to review projects identified for special consideration with the City Manager, City Council representative in which the project is located and the Mayor to discuss design criteria specific to those projects, advise on the proposed budget and formalize recommendations in writing as part of the CIP program. (See Exhibit A)

- A workshop will then be held to review all projects identified as requiring special consideration. This workshop will be presented to all members of City Council and the Mayor for their comments.

- **Prioritization**

Members of City Council and the City Manager meet to prioritize the CIP projects. District Advisory Boards (DABs) or other public input will be used at the discretion of City Council. City Council members and the City Manager may request a special meeting with the Design Council to discuss these projects which require special consideration.

- **Approval**

Annually the City Council approves the Capital Improvement Program.

## Project Initiation

- **Department Initiation**

Individual departments will initiate their projects. Those requiring special consideration will include communication with the staff person assigned to the Design Council. It is at this point that a Request for Proposals (RFP) is created which further defines the project criteria using the included written criteria defined by City Staff, City Manager, City Council and Design Council.

- **Design Team Selection**

Projects that have been identified for special consideration will require use of an integrated design approach to complete the project. Using planners, engineers, architects, landscape architects, and artists allows projects that require special consideration to move forward with a collaborative team approach to find creative, innovative solutions to meet design criteria. A member of the Design Council or City Staff assigned to the Design Council will be voting members of the selection panel.

## **Design Council Review**

In order to handle Design Council reviews efficiently, and avoid multiple presentations, the staff and consultant are asked to cooperatively include the following elements in their presentation:

- **Conceptual Design Phase (35% Design Phase)**

The first presentation should be made as early in the design phase as possible to avoid designers spending great amounts of time designing without input from the members of the City Council, City Manager, and Design Council.

The City Staff person assigned to the Design Council will meet with the City Council representative for the district where the project is located. At-large projects will also be presented by a City staff member assigned to Design Council and the project manager for review by the Mayor in addition to the Council member. The consultant will be advised by staff upon approval to present this concept for review by the Design Council. The Mayor and City Council members are invited to attend any Design Council meeting where projects of interest to them are presented. Minutes from all meetings are made available to them 10 days after the meeting.

The Design Council believes important factors at this stage include:

1. Encourage early collaboration.
2. Support early inclusion and explanation of all members as equals to the team.
3. Promote team brainstorming to encourage a variety of diverse ideas.
4. Endorse interdisciplinary problem solving.

### **Concept Presentation**

- A conceptual sketch of the designer's preferred design should be presented.
- The criteria for the project should be summarized by the responsible City project manager assigned to this project. Existing pertinent circumstances should be explained and visual materials provided to the board members one week prior to the meeting date.
- Photos of the existing on-site conditions and visually pertinent off-site conditions should be shown during the workshop presentation with some verbal explanation of the designer's perceptions of important conditions. This information may also be sent to board members before review.
- Whereas the sketches should be complete and clear enough that the Design Council members can assess the intended aesthetic character and impact of the project, the consultant should bear in mind that Design Council members are accustomed to reviewing rough sketches. As long as the sketches are adequate to portray the project accurately and completely it is not necessary that they be fine renderings. No special consideration will be given to beautiful delineations.
- Color is necessary only if it is important to the visual impact of the project. Models are acceptable (preferred in some kinds of projects) but they need only be conceptual or study models which were built in the quickest and most economical way. The designers should be present at the review to present his or her design and answer questions.

\*Designers may request to meet earlier on projects to receive guidance for design concepts.

- **Design Freeze Review and Presentation (65% - 80% Design Phase)**

Mayor and City Council members are invited to attend any Design Council meeting where projects of interest to them are presented. Minutes from all meetings are made available to them 10 days after the meetings.

As projects progress, City staff needs to approve the project on an agreed timeline before the project can proceed. The project should be presented again when the design of the project has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationships, amenities, budget, etc.) have been decided and tentatively approved by staff.

It should be noted it is in the consultant's best interest to reach design freeze and gain design approval as early in the project as possible. The Design Council does not presume to tell the consultant or staff when in the planning process design freeze should take place. The amount of time and effort which the consultant has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze Review.

**Design Freeze presentation should include:**

- Conceptual design sketches and/or models, which have previously been reviewed by the Design Council and approved by the City, should be brought along for reference.
- Final design drawings and/or models should be presented. They should be accurate, to scale and in color though they need not be fine renderings or presentation models.
- A schedule of exterior materials (including plants) should be presented.
- A color schedule of exterior colors should be presented.
- Samples of any materials which are important to the visual quality and with which an average individual might not be familiar should be presented.
- Budget should be reviewed with any add alternates explained.

**Council Approval**

Once the project has received final approval from the Design Council, the project is then submitted to the City Council member where the project is located by the project manager and City staff assigned to Design Council. Once the City Council member where the project is located has given approval, the project will then be submitted to the full City Council and the Mayor for their final approval.

- **Major Project Change Review**

Under exceptional circumstances, it is sometimes necessary that major changes be made in a project after a design review has been made. Depending upon the extent and scope of the proposed changes and the stage at which the project stands, the project should be resubmitted to the Design Council at the most appropriate stage. The project manager for the project and City staff assigned to the Design Council will review changes needed and determine if this meeting is necessary.



- **Review Report**

The Design Council will make its recommendations to the City Manager and City Council normally within 10 days of the project review by submission of the recorded minutes of the Design Council meeting. The project manager will inform the consultant of any requirements relating to the project.

The consultant is reminded that the Design Council's responsibility is simply to make recommendations to the City Manager and City Council on visual enhancements. All requirements placed on the consultant will come from the project manager assigned to the project. Design Council members are not to be contacted individually to get an opinion of what the consultant must do to obtain design approval for the project.

If you have any questions please contact:

John D'Angelo, Manager  
Division of Arts & Cultural Services  
225 W Douglas  
Wichita, KS 67202  
(316) 303-8600  
[jdangelo@wichita.gov](mailto:jdangelo@wichita.gov)

**Exhibit A**

**CITY OF WICHITA  
2000-2009 CAPITAL IMPROVEMENT PROGRAM**

**Project Category:**

**District:**

**No.:**

**Title:**

**Through 1999**

**Description:**

**Design Criteria:**

**Justification:**

**Relationship to Master Plan and Other Projects:**

**Operating Budget Implications:**

Map Goes Here

Source	Amount	Type	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2009+	Project Total

**City of Wichita  
City Council Meeting  
August 3, 2010**

**TO:** Mayor and City Council

**SUBJECT:** Kellogg Freeway, from Cypress to 127th Street East-Revised Design Concept (District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** New Business

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**Background:** Kellogg Avenue (US54/400) is a vital east-west route through Wichita and Sedgwick County. Expansion of the Kellogg Avenue (US54/400) Corridor from a four lane expressway to the six lane freeway, known as the Kellogg Flyover, began in 1990 just west of Wichita's Central Business District. Successive projects have extended the freeway section both east and west for a total 13 mile long six lane freeway from 111<sup>th</sup> Street on the west side to 1/2 mile east of Rock Road (Cypress Street) on the east side. The current six lane improvement ends at Cypress Street and abuts the existing four lane segment. The existing four lanes extend east through the interchange at I-35 / Kansas Turnpike Authority (KTA) and major at-grade intersections at Webb Road and at Greenwich Road to 127<sup>th</sup> Street East (Project I). It continues as a four lane through the interchange at K-96 and at-grade intersections at 143<sup>rd</sup> and 159<sup>th</sup> (Project II).

On December 4, 2007, the City Council approved an agreement with PB Americas, Inc. (PB), and a consortium of local consulting engineering firms including Baughman, TranSystems and MKEC to prepare construction plans for a Kellogg Avenue (US54/400) freeway from Cypress to 127<sup>th</sup> Street East (Project I), which included Webb Road. The design team prepared several design concepts for this project and had recommended a concept that included providing access to the KTA via a signalized interchange west of Webb Road. Based on the consultant's recommendation as well as the staff's, the City Council approved that design concept on March 2, 2010.

**Analysis:** The signalized intersections in this corridor are currently at or near capacity. In response to the continued growth of east Wichita, the City has initiated final design for approximately 2.5 miles of Kellogg Avenue (US54/400) from Cypress Road to 127<sup>th</sup> Street East. The improvement to freeway standards would efficiently carry the projected 2040 design year traffic volumes that are estimated to be in the range from 99,900 to 129,500 vehicles per day on Kellogg. Kellogg Avenue (US54/400) will have full access control that will be implemented on the intersecting arterial streets.

The most complex portion of this design is in the area between the KTA and Webb Road. When the KTA (Plaza 50) was constructed, Webb Road was a secondary road in a rural area. In the past 50 years, the area has become urbanized and Webb Road has become a major arterial street. The task of providing two conventional interchanges as close together as Webb and the KTA toll plaza is recognized by industry professionals as difficult, at best. After screening numerous proposals, concepts were narrowed to three options at the Webb/KTA Interchange: U-Turn; Signalized; and Roundabout. Evaluations for each of the three options were conducted using factors such as traffic operations, safety, right-of-way impacts, and construction cost. Additional factors taken into consideration were driver expectancy, renewed impacts to previously affected businesses, potential for future expansion, and access for adjacent properties during construction.

Although the construction of an interchange to serve Webb Road would clearly perform the best, in relation to the volume of local traffic accessing Webb Road, it would eventually require closure of the KTA entrance, (known as exit 50). Closure of the KTA entrance west of Webb Road was not supported by the KTA or by KDOT. The design option that KDOT and KTA did favor required a signalized interchange at the KTA and reduced Webb Road to a partial interchange. Although this option does provide a direct connection from Kellogg to the KTA at exit 50, it required an additional signalized stop for traffic exiting Kellogg to access Webb Road and also required a signal for westbound traffic entering Kellogg from Webb Road. This option, appearing to be the best alternative available, was therefore recommended and approved by City Council on March 2, 2010.

Reservations about this option prompted Engineering staff to request that the consultant explore another option that could eliminate the need for eastbound traffic exiting Kellogg to pass thru an additional signal at the KTA. Diligent work by staff and the consultant has resulted in a new concept that still provides a connection to the KTA while eliminating the additional signals that would have been required at that connection. Staff believes that this new option will provide much better service to the motoring public while providing access to both Webb Rd and the KTA.

This new concept was presented and discussed with both KDOT and KTA and both agencies now endorse this design.

**Financial Considerations:** There are no significant cost differences between the revised concept and the original concept. The estimated project costs are \$300,000,000 for Project I and \$230,000,000 for Project II. The funding for construction of the KTA/Webb Interchange is included in the 2009-2018 Capital Improvement Program.

**Goal Impact:** These projects address the Efficient Infrastructure goal by providing a safe and efficient transportation system. They address the Economic and Affordable Living goal by providing a public improvement which reduces the cost of transportation. It also improves the air quality of the region whereby the goal of a Safe and Secure Community is met by improving environmental health.

**Legal Considerations:** None.

**Recommendation/Action:** It is recommended that the City Council approve the revised design concept that provides a free flowing interchange at the KTA, including access controls, and authorize the completion of construction plans.

**Attachment:** None.

City of Wichita  
City Council Meeting  
August 3, 2010

**TO:** Mayor and City Council Members  
**SUBJECT:** 2011/2012 Annual Operating Budget  
**INITIATED BY:** Department of Finance *Kelly Carpenter*  
**AGENDA:** New Business

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**Recommendation:** Receive public comment.

**Background:** The 2011 – 2012 Proposed Budget has been developed over the past several months based on input from the public and direction from the City Council. Public input has included District Advisory Board meetings, and community meetings. Council direction has included workshop presentations. On July 13, 2010, the City Manager's Proposed Budget was presented to the City Council and a public hearing was held. On July 20, 2010, a public hearing was held and the City Council approved the publication of required budget notices, and set the official budget adoption date (as required by state statute) as August 10, 2010. The Proposed Budget calendar is summarized below:

- ü June 2 & 7 - District Advisory Board meetings
- ü June 22 - Workshop presentation
- ü June 28 - Community meeting to discuss the budget
- ü July 13 - Official presentation of the proposed operating budget to the City Council; receive public comment;
- ü July 20 - Authorization of the publication notice; Setting of the official budget adoption date; receive public comment
- ü August 3 - Receive public comment
- ü August 10 - Official public hearing; adoption of the 2011 Annual Budget; receive public comment

**Analysis:** The local operating budget totals approximately \$519 million (which does not include internal service funds, capital projects, grant funds, trust funds or interfund transfers).

**Financial Considerations:** The Proposed Budget would require a mill levy estimated at 32.142 mills (24.642 for the General Fund and 7.500 for the Debt Service Fund), based on the estimated assessed valuation provided by the Sedgwick County Clerk and the taxes levied in the budget. The total estimated mill levy is unchanged from the 2010 mill levy.

**Goal Impact:** The 2011 Proposed Budget impacts all goal areas.

**Legal Considerations:** To comply with State law, the City of Wichita must hold two public hearings, one to set the maximum levy and to set the official budget hearing date (which occurred on July 20, 2010) and one to adopt the budget (scheduled for August 10, 2010).

**Recommendation/Action:** It is recommended that the City Council receive public comment on the 2011 Proposed Budget.

**City of Wichita  
City Council Meeting  
August 3, 2010**

**TO:** Mayor and City Council

**SUBJECT:** SUB2010-00022 -- Plat of Ysidro 2<sup>nd</sup> Addition located on the east side of Broadway, north of MacArthur Road. (District III)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA ACTION:** Planning (Consent)

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**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (11-0)

**Background:** The site, consisting of one lot on 10 acres, is located within Wichita's city limits. A zone change (ZON2009-00036) from SF-5 Single-family Residential to LI Limited Industrial and GC General Commercial has been approved for the site. A Conditional Use (CON2009-00040) has also been approved for the eastern portion of the site.

**Analysis:** Water and sewer services are available to serve the site.

The plat has been approved by the Metropolitan Area Planning Commission, subject to conditions. Publication of the ordinance should be withheld until the plat is recorded with the Register of Deeds.

**Financial Considerations:** None.

**Goal Impact:** Ensure Efficient Infrastructure.

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the City Council approve the plat, authorize the necessary signatures and approve first reading of the ordinance.

**Attachments:** None.



**Published in The Wichita Eagle on August 13, 2010**

**ORDINANCE NO. 48-792**

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

**BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.**

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON 2009-00036**

Zone change request from SF-5 Single-family Residential to GC General Commercial, on property described as:

The west 455 feet of Lot 1, Block A, Ysidro 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas; and,

Zone change request from SF-5 Single-family Residential to LI Limited Industrial, on property described as:

Lot 1, Block A, except the west 455 feet, Ysidro 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas.

Generally located south on the east side of Broadway, north of MacArthur Road.

**SECTION 2.** That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

**ADOPTED this 10th day of August, 2010.**

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_  
Carl Brewer, Mayor

(SEAL)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law



City of Wichita  
City Council Meeting  
August 3, 2010

**To:** Mayor and City Council

**Subject:** VAC2010-00007 – A request to vacate platted easements; generally located west of 159th Street East, south of I-35. (District I)

**Initiated By:** Metropolitan Area Planning Department

**Agenda:** Planning (Consent)

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**Staff Recommendation:** Approve.

**MAPC Recommendation:** Approve (unanimously).

**Background:** The applicant proposes to vacate multiple platted five-foot wide maintenance access easements located along the interior side yards of Lots 14, 15, 16, 17, 18, and 19, Block 2, Terradyne West Addition. The Terradyne West Addition was recorded with the Register of Deeds on December 12, 2006, and it included reduced side yard setbacks, when compared to standard zoning requirements. Since the property was platted in 2006, the lots have gone unsold, and the developer desires to change the style of house he intended to build on the lots with the reduced setbacks. The applicant proposes boundary shifts on the described lot lines once the vacation has been completed. The vacation case will remove the platted easement and allow the boundary shifts. Per the platlor's text, the described platted maintenance access easements are to be used for "...pedestrian emergency access, construction, maintenance, the extension of footing(s) and a two-foot overhang of the structure on the adjacent lot." There are not any utilities located in the easements.

**Analysis:** The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

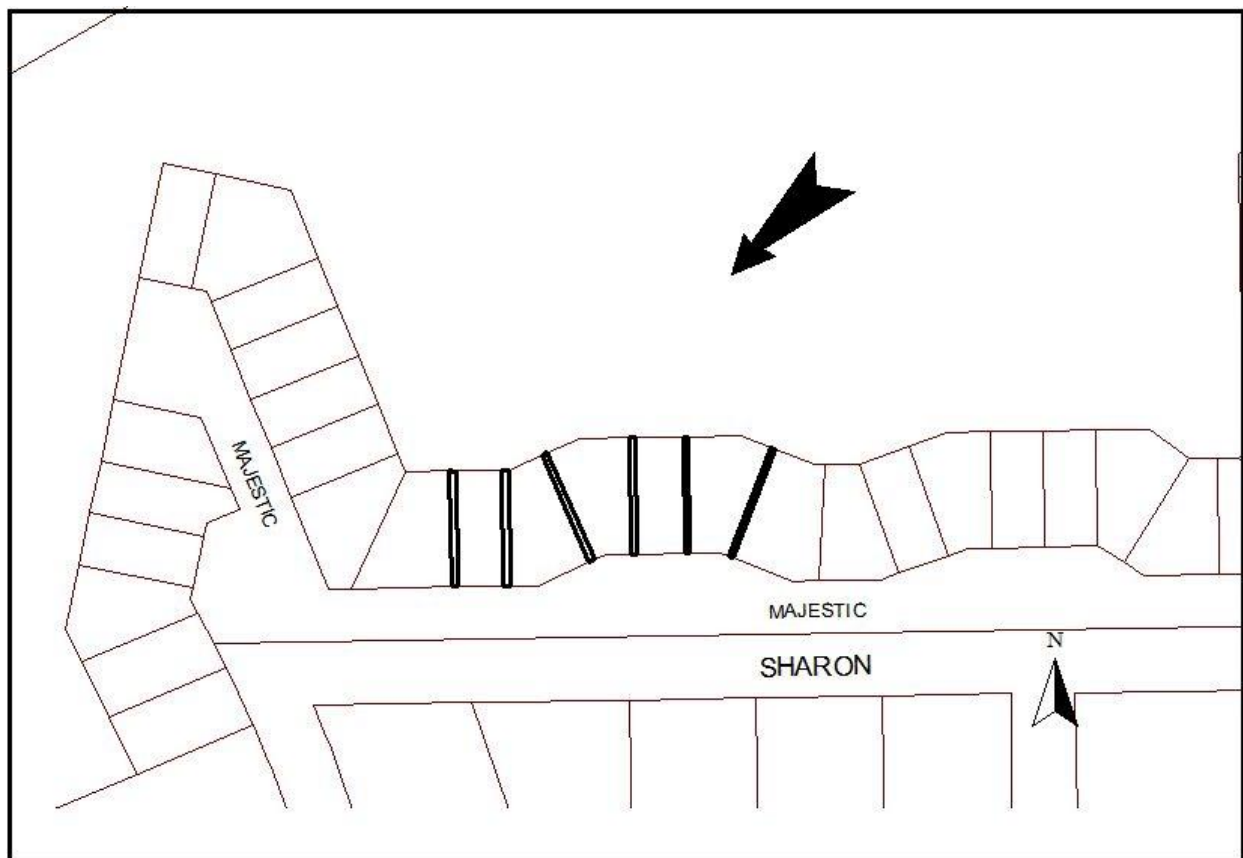
**Financial Considerations:** None.

**Goal Impact:** Ensure Efficient Infrastructure.

**Legal Considerations:** A certified copy of the Vacation Order will be recorded with the Register of Deeds.

**Recommendation/Actions:** Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

**Attachments:** None.



**PRELIMINARY ESTIMATES  
FOR CITY COUNCIL AUGUST 3, 2010**

- a. Botanica Paving and Drainage Improvements, Phase 1 (southwest of Amidon and Murdock) (472-84758/785161/397238) See Special Provisions. (District VI) - \$447,564.00
- b. Heartland Preparedness Center, Water Distribution System & Lateral 127, Sanitary Sewer #23 Improvements (east of I-135, north of 27th Street North) (448-90476/468-84675/792529/435450) See Special Provisions. (District I) - \$726,013.00
- c. Heartland Preparedness Center, Single 8'x8' Reinforced Concrete Box (east of I-135, north of 27th Street North) (472-84890/792529/435450) See Special Provisions. (District I) - \$915,320.00
- d. Bluestem Street Stormwater Repair to serve Cedar Lakes Village Addition (east of Rock Road, south of Harry Street) (468-84692/133117/) Local traffic shall be maintained. (District II) - \$28,400.00
- e. Lark Court from the east line of Lark, east to and including the cul-de-sac to serve Steve Kelley 6th Addition (south of Kellogg, west of Maize) (472-84889/766252/490270) Does not affect existing traffic. (District IV) - \$55,000.00

City of Wichita  
City Council Meeting  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Community Events – A Taste of Wichita  
(District I)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

---

**Recommendation:** Approve the request for temporary street closures and adopt the resolution.

**Background:** In accordance with the Community Events procedure, the event promoter Brett Harris, Envy Event & Design is coordinating with staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**A Taste of Wichita, August 14, 2010 3:00 am –8:00 pm**

- § St. Francis Street, Douglas Avenue to East William Street
- § East William Street, St. Francis Street to Commerce Street.

The event promoter will arrange to remove barricades as necessary to allow emergency vehicle access during entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with special event.

**Goal Impact:** Enhance the Quality of Life.

**Legal Consideration:** None.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; (3) Certificate of Liability Insurance on file with the Community Events Coordinator; and (4) adopt the resolution.

**Attachments:** Resolution

**RESOLUTION NO. 10-212**

**A RESOLUTION AUTHORIZING THE CONSUMPTION OF ALCOHOLIC LIQUOR  
ON PUBLIC STREETS DURING THE 2010 "A TASTE OF WICHITA" EVENT**

WHEREAS, the City Council has approved as a community event , A Taste of Wichita, to occur on August 14, 2010.

WHEREAS, the City Council has approved the following streets to be closed to vehicular traffic for such event from 8:00 a.m. to 8:00 p.m. on August 14, 2010: Douglas Avenue, from St. Francis Street to Mead Street, St. Francis Street from Douglas Avenue to East William Street, and East William Street, St. Francis Street to Commerce Street.

WHEREAS, a temporary permit for the consumption of alcoholic liquor at A Taste of Wichita has been applied for and will be issued by the State of Kansas and the City of Wichita upon the presentation of this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Council, pursuant to Section 3.11.065(d) of the Code of the City of Wichita, and in consideration of the factors set forth in Section 3.11.080 of the Code of the City of Wichita, grants its approval for the consumption of alcoholic liquor on the city streets, sidewalks and public right of ways which are located within the designated event area of A Taste of Wichita, to occur on August 14, 2010.

**ADOPTED** by the governing body of the City of Wichita, Kansas, this 3rd day of August, 2010.

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

**CITY OF WICHITA**  
**City Council Meeting**  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Acquisition of a Temporary Easement at 405 South 119<sup>th</sup> Street for the 119<sup>th</sup> Street West from Kellogg to Maple Improvement Project (District V)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

---

**Recommendation:** Approve the acquisition.

**Background:** On August 4, 2009, the City Council approved funding to acquire right-of-way for a project to improve 119<sup>th</sup> Street West from Kellogg to Maple. The improvements will consist of widening the two lane road to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaping will also be installed within available right of way. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of 119th. To facilitate construction, a temporary easement is required from the parcel at 405 South 119<sup>th</sup> Street West. The property is zoned limited commercial and improved with a branch bank. The improvements will not be impacted by the easement however; landscaping and a sprinkler system will be impacted.

**Analysis:** The proposed temporary easement area consists of 4,031 square feet. The easement will permit the City access to the site for matching grades. It will also permit access to the property for the construction of a sidewalk along the property line. The easement was valued at \$1,520 (\$.38 per square foot). The impact to landscaping and sprinkler systems was estimated at \$1,900. The owner has agreed to accept this amount, \$3,620 for the easement and associated damages.

**Financial Considerations:** The funding source is General Obligations Bonds and monies administrated by the Kansas Department of Transportation. A budget of \$3,460 is requested, which includes \$1,520 for the easement, \$1,900 for the sprinklers and \$200 for closing costs and related charges.

**Goal Impact:** The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

**Legal Considerations:** The Law Department has approved the temporary construction easement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) Accept the Easement and 2) Approve the Budget.

**Attachments:** Aerial map, tract map and temporary construction easement.

## TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 16<sup>th</sup> day of July, 2010, by and between Intrust Bank, N.A., a national banking association, Grantor and the City of Wichita, Kansas, a municipal corporation, Grantee.

WITNESSETH: That the said Grantor, in consideration of the sum of Three Thousand Four Hundred Twenty and no/100 Dollars (\$3,420.00) and other good and valuable consideration, the receipt whereof is here by acknowledged, do hereby grant and convey unto the Grantee a temporary right-of-way for the purpose of constructing, maintaining, and repairing road right-of-way, over, along and under the following described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

**Tract D-56860-1  
Intrust Bank, N.A.  
Temporary Construction Easement**

Commencing from the Northeast Corner of Lot 2, Block A, Thunderbird Office Park , an Addition to Wichita, Sedgwick County, Kansas; thence S 00°00'00" W along the East line of said Lot 2 a distance of 99.90 feet to the point of beginning; thence continuing S 00°00'00" W along said East line of said Lot 2 a distance of 241.09 feet; thence S 90°00'00" W a distance of 47.11 feet; thence N 17°17'25" E a distance of 91.21 feet; thence N 90°00'00" E a distance of 13.00 feet to a point 7.00 feet West of said East line of said Lot 2; thence N 00°00'00" E a distance of 154.00 feet; thence N 90°00'00" E a distance of 7.00 feet to the point of beginning, containing **4,000.31 square feet more or less.**

And said Grantee, successors and assigns, is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such roadway and utility improvements beginning the date this easement is executed. This temporary easement shall expire automatically at the end of construction or at three years from execution of said document, whichever comes first.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

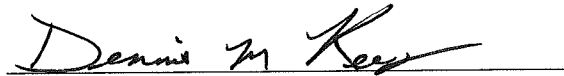
Landowner:



Chad Depew, Facilities Management Officer, Intrust Bank, N.A.

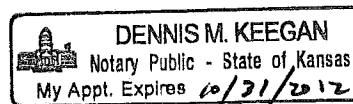
STATE OF KANSAS     )  
                                  ) ss:  
SEDGWICK COUNTY    )

This instrument was acknowledged before me on the 16<sup>TH</sup> day of July, 2010 by  
Chad Depew, Facilities Management Officer, Intrust Bank, N.A. of Sedgwick County Kansas.



DENNIS M. KEEGAN, Notary Public

My Commission Expires: OCT 31, 2012

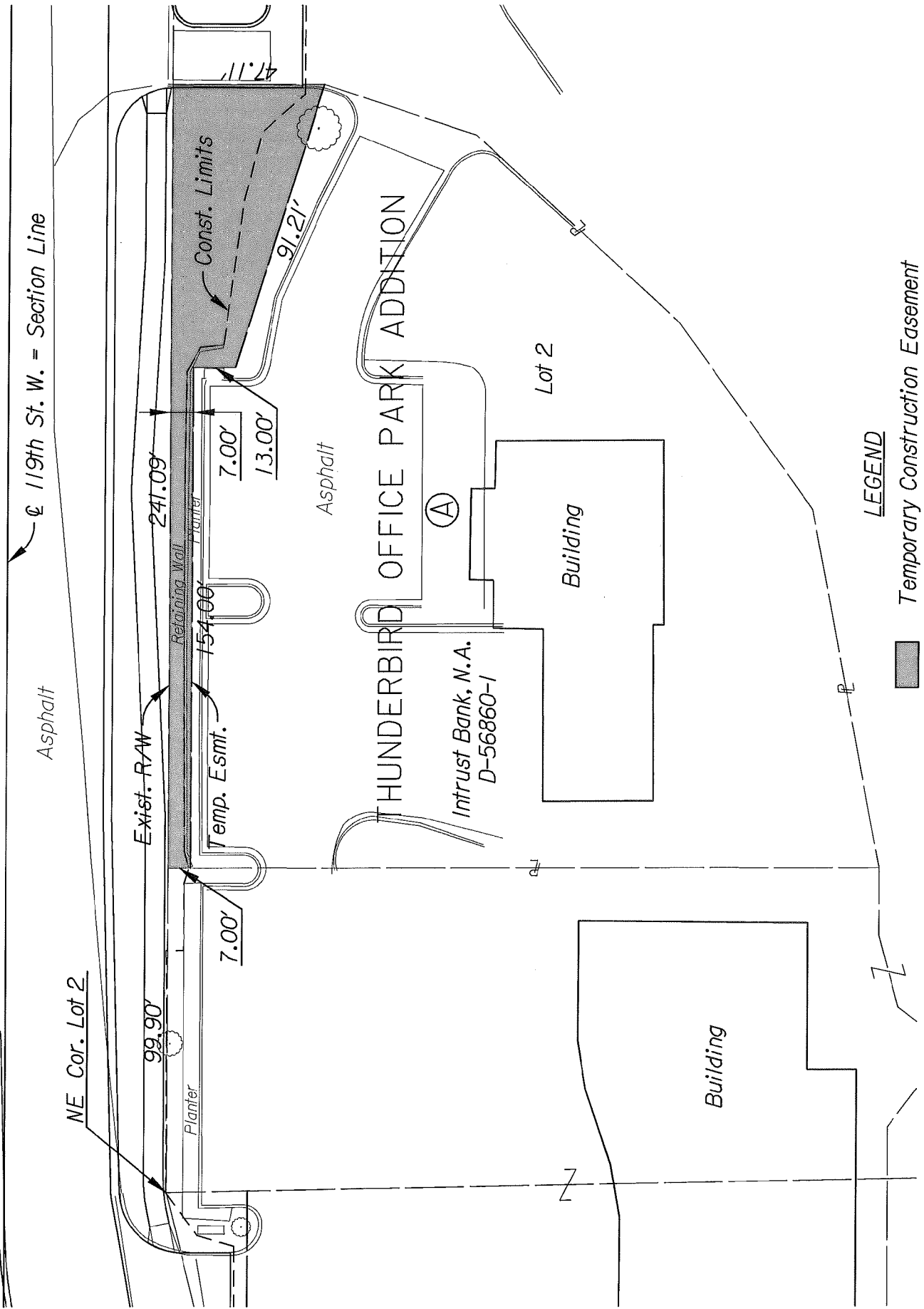




# TRACT MAP D-56860-1 TEMPORARY CONSTRUCTION EASEMENT



(Not to Scale)



March 10, 2010



# 405 South 119th Street West



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**CITY OF WICHITA**  
**City Council Meeting**  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Acquisition of a Temporary Easement at 445 South 119<sup>th</sup> Street for the 119<sup>th</sup> Street West from Kellogg to Maple Improvement Project (District V)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

---

**Recommendation:** Approve the acquisition.

**Background:** On August 4, 2009, the City Council approved funding to acquire right-of-way for a project to improve 119<sup>th</sup> Street West from Kellogg to Maple. The improvements will consist of widening the two lane road to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaping will also be installed within available right of way. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of 119th. To facilitate construction, two temporary easements are required from the parcel at 445 South 119<sup>th</sup> Street West. The property is zoned limited commercial and is currently unimproved.

**Analysis:** The proposed temporary easement areas consist of 2,774 and 2,212 square feet for a total of 4,986 square feet. The easements will permit the City access to the site for matching grades. It will also permit access to the property for the construction of a sidewalk along the property line. The easements are valued at \$1,900 (\$.38 per square foot). The owner has agreed to accept this amount.

**Financial Considerations:** The funding source is General Obligations Bonds and monies administrated by the Kansas Department of Transportation. A budget of \$2,100 is requested, which includes \$1,900 for the easement, \$1,900 for the sprinklers and \$200 for closing costs and related charges.

**Goal Impact:** The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

**Legal Considerations:** The Law Department has approved the temporary construction easement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) Accept the Easement and 2) Approve the Budget.

**Attachments:** Aerial map, tract map and temporary construction easement.

## TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 16<sup>th</sup> day of July, 2010, by and between Westlake, L.L.C., Grantor and the City of Wichita, Kansas, a municipal corporation, Grantee.

WITNESSETH: That the said Grantor, in consideration of the sum of One Thousand Nine Hundred and no/100 Dollars (\$1,900.00) and other good and valuable consideration, the receipt whereof is here by acknowledged, do hereby grant and convey unto the Grantee a temporary right-of-way for the purpose of constructing, maintaining, and repairing road right-of-way, over, along and under the following described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

**Tract D-56860  
Westlake L.L.C.  
Temporary Construction Easement**

Commencing from the Northeast Corner of Lot 2, Block A, Thunderbird Office Park , an Addition to Wichita, Sedgwick County, Kansas; thence S 00°00'00" W along the East line of said Lot 2 a distance of 340.99 feet to the point of beginning; thence continuing S 00°00'00" W along said East line of said Lot 2 a distance of 61.99 feet; thence S 90°00'00" W a distance of 44.76 feet; thence N 00°00'00" E, parallel with said East line of said Lot 2, a distance of 61.99 feet; thence N 90°00'00" E a distance of 44.76 feet to the point of beginning,  
containing **2,774.54 square feet more or less.**

TOGETHER WITH;

Beginning at the southern most South Corner of Lot 2, Block A, Thunderbird Office Park, an Addition to Wichita, Sedgwick County, Kansas; thence N 00°00'00" E along the East line of said Lot 2 a distance of 193.63 feet; thence N 43°15'32" W a distance of 27.82 feet; thence S 02°46'00" E a distance of 84.00 feet; thence S 06°35'13" E a distance of 130.85 feet to the point of beginning,  
containing **2,211.95 square feet more or less.**

And said Grantee, successors and assigns, is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such roadway and utility improvements beginning the date this easement is executed. This temporary easement shall expire automatically at the end of construction or at three years from execution of said document, whichever comes first.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

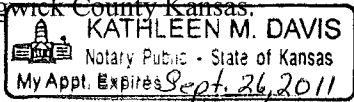
Landowners:

William G Farha  
William G. Farha, Trustee, ~~Westlake, L.L.C.~~ William F. Farha Trust  
Member, Westlake LLC

STATE OF KANSAS     )  
                                  ) ss:  
SEDGWICK COUNTY    )

This instrument was acknowledged before me on the 16<sup>th</sup> day of July, 2010 by

~~William George Farha II, Member, Westlake, L.L.C. and~~  
~~William G. Farha, Trustee, Westlake, L.L.C.~~ William F. Farha Trust, Member, Westlake LLC  
of Sedgwick County Kansas.



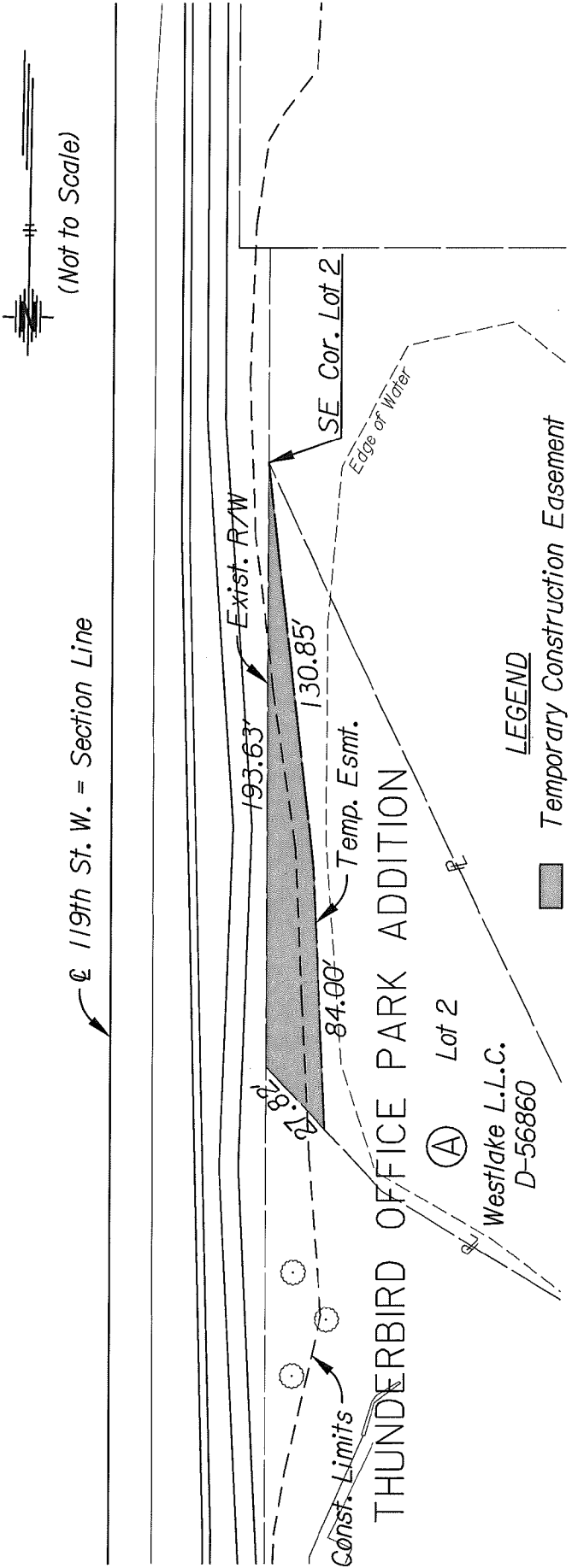
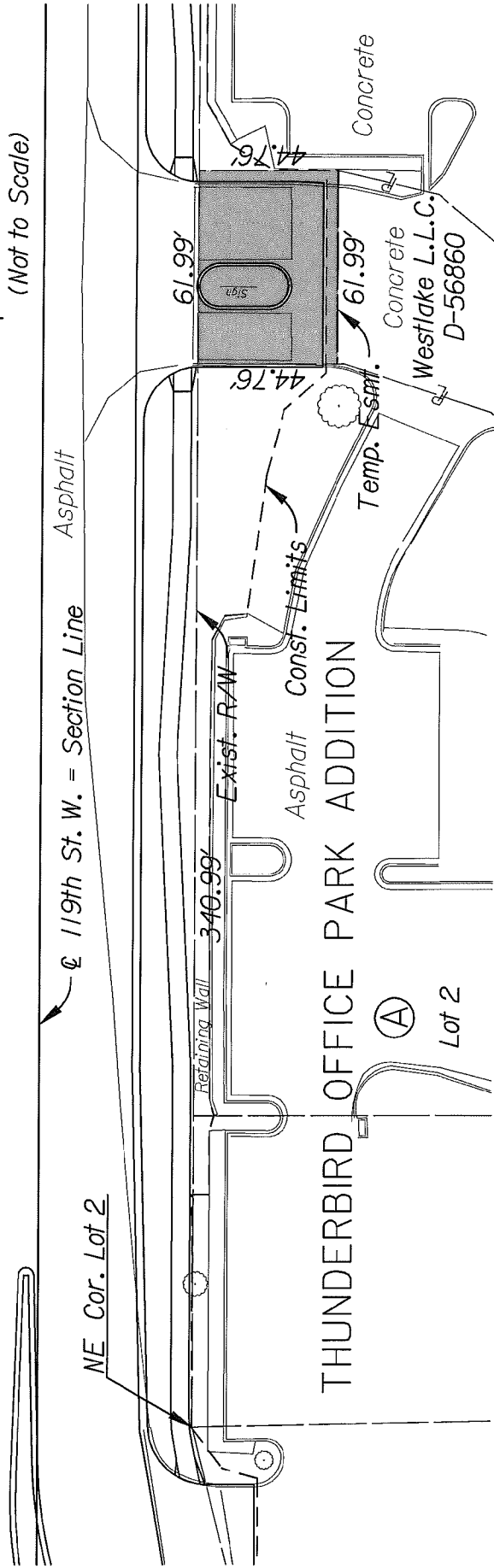
KATHLEEN M DAVIS

Kathleen M. Davis, Notary Public

My Commission Expires: Sept. 26, 2011

# TRACT MAP D-56860

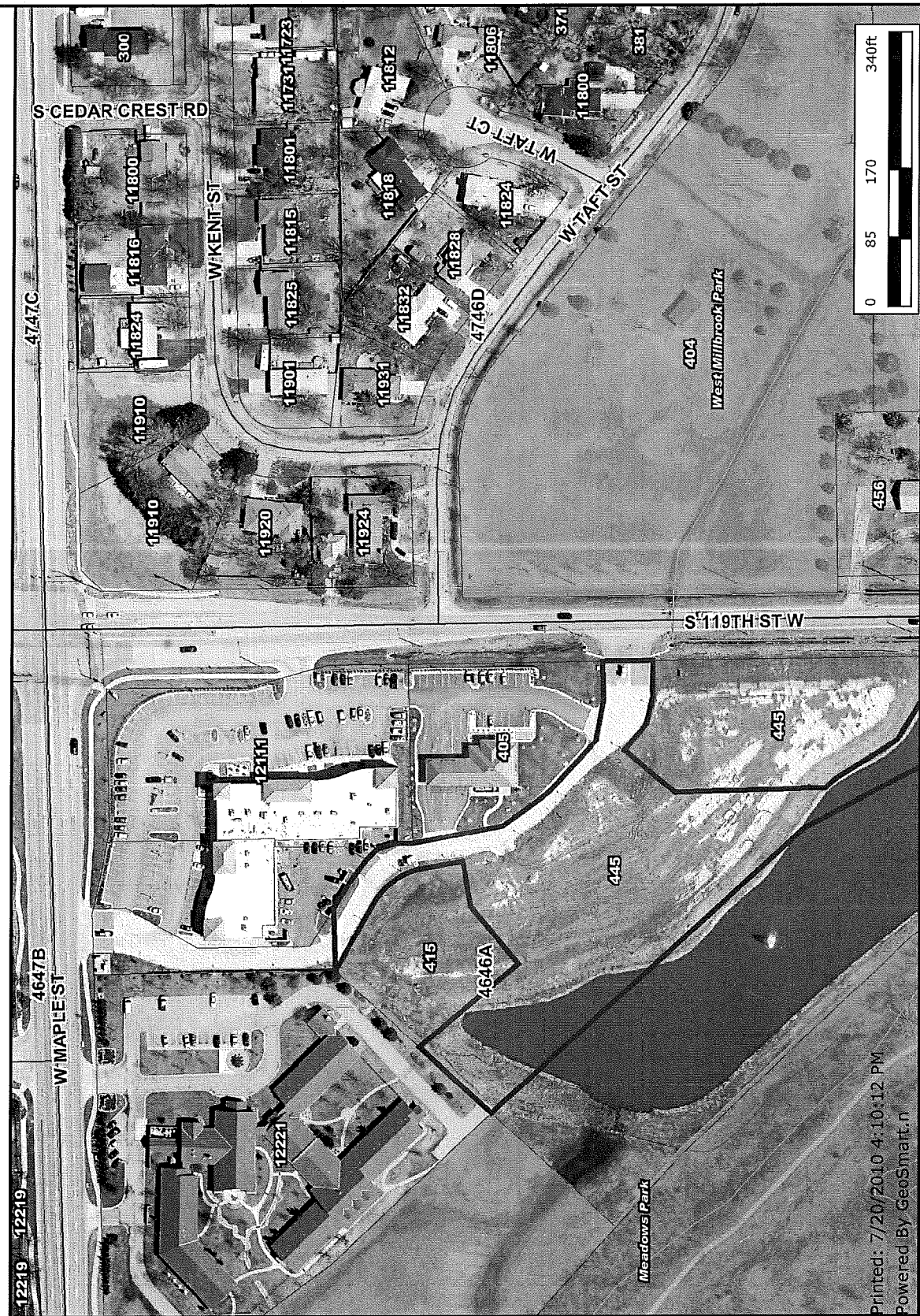
## TEMPORARY CONSTRUCTION EASEMENT







# 445 South 119th Street West



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- Identified Features
- Property Parcels
- Roads
  - State Highway
  - US Federal Highway
  - Interstate
  - KTA
  - Arterial
  - Collector
  - Minor
  - Ramp
- Railroads
- Quarter Section
- Waterways
- Streams
- Parks
- Airports
- SDERASTER.S-  
DEDATA.ORTH-  
01FT
- SDERASTER.S-  
DEDATA.ORTH-  
0
- City Limits
  - Andale
  - Bel Aire
  - Bentley
  - Cheney
  - Clearwater
  - Colwich
  - Derby
  - Eastborough
  - Garden Plain
  - Goddard
  - Haysville
  - Kechi
  - Malze
  - Mount Hope



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**CITY OF WICHITA**  
**City Council Meeting**  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Acquisition of a Temporary Easement at 12111 West Maple Street for the 119<sup>th</sup> Street West from Kellogg to Maple Improvement Project (District V)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

---

**Recommendation:** Approve the acquisition.

**Background:** On August 4, 2009, the City Council approved funding to acquire right-of-way for a project to improve 119<sup>th</sup> Street West from Kellogg to Maple. The improvements will consist of widening the two lane road to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaping will also be installed within available right of way. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of 119th. To facilitate construction, two temporary easements are required from the parcel at 12111 West Maple. The property is zoned limited commercial and is currently improved with a restaurant.

**Analysis:** The proposed temporary easement areas consist of 1,256 and 699 square feet for a total of 1,955 square feet. The easements will permit the city access to the site for matching grades. It will also permit access to the property for the construction of a sidewalk along the property line. The easements are valued at \$750 (\$.38 per square foot). In addition, there is one tree, valued at \$200, which will be impacted by the project. The owner has agreed to accept the offered amount of \$950.

**Financial Considerations:** The funding source is General Obligations Bonds and monies administrated by the Kansas Department of Transportation. A budget of \$1,150 is requested. This includes \$750 for the easement, \$200 for the tree and \$200 for closing costs and related charges.

**Goal Impact:** The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

**Legal Considerations:** The Law Department has approved the temporary construction easement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) Accept the Easement and 2) Approve the Budget.

**Attachments:** Aerial map, tract map and temporary construction easement.



## TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 16<sup>th</sup> day of July, 2010, by and between Westlake Phase I Retail, L.L.C., Grantor and the City of Wichita, Kansas, a municipal corporation, Grantee.

WITNESSETH: That the said Grantor, in consideration of the sum of Nine Hundred Fifty and no/100 Dollars (\$950.00) and other good and valuable consideration, the receipt whereof is here by acknowledged, do hereby grant and convey unto the Grantee a temporary right-of-way for the purpose of constructing, maintaining, and repairing road right-of-way, over, along and under the following described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

**Tract D-56859-1**  
**Westlake Phase I Retail, L.L.C.**  
**Temporary Construction Easement**

Commencing from the Northeast Corner of Lot 1, Block A, Thunderbird Office Park, an Addition to Wichita, Sedgwick County, Kansas; thence S 00°00'00" E along the East line of said Lot 1 a distance of 175.00 feet to the point of beginning; thence continuing S 00°00'00" E a distance of 100.47 feet more or less to a point on the South line of said Lot 1; thence N 88°55'15" E along said South line of said Lot 1 a distance of 25.00 feet to the Southeast Corner of said Lot 1; thence N 14°02'10" W along said East line of said Lot 1 a distance of 103.08 feet to the point of beginning, containing **1,255.89 square feet more or less.**

TOGETHER WITH;

Beginning at the Northeast Corner of Lot 2, Block A, Thunderbird Office Park, an Addition to Wichita, Sedgwick County, Kansas; thence S 00°00'00" E along the East line of said Lot 2 a distance of 99.90 feet; thence N 90°00'00" W a distance of 7.00 feet; thence N 00°00'00" E, parallel with said East line of said Lot 2, a distance of 99.77 feet more or less to a point on the North line of said Lot 2; thence N 88°55'15" E along said North line of said Lot 2 a distance of 7.00 feet to the point of beginning, containing **698.84 square feet more or less.**

And said Grantee, successors and assigns, is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such roadway and utility improvements beginning the date this easement is executed. This temporary easement shall expire automatically at the end of construction or at three years from execution of said document, whichever comes first.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

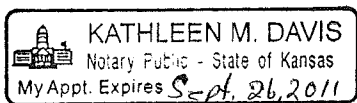
Landowners:

William G. Farha  
William G. Farha, Trustee, ~~Westlake, L.L.C.~~ William F. Farha Trust, Member  
Westlake Phase 1 Retail, LLC

STATE OF KANSAS     )  
                                  ) ss:  
SEDGWICK COUNTY    )

This instrument was acknowledged before me on the 16<sup>th</sup> day of July, 2010 by

~~William George Farha II, Member, Westlake, L.L.C. and~~  
William G. Farha, Trustee, ~~Westlake, L.L.C.~~ William F. Farha Trust, Member,  
of Sedgwick County Kansas. Westlake Phase 1 Retail, LLC

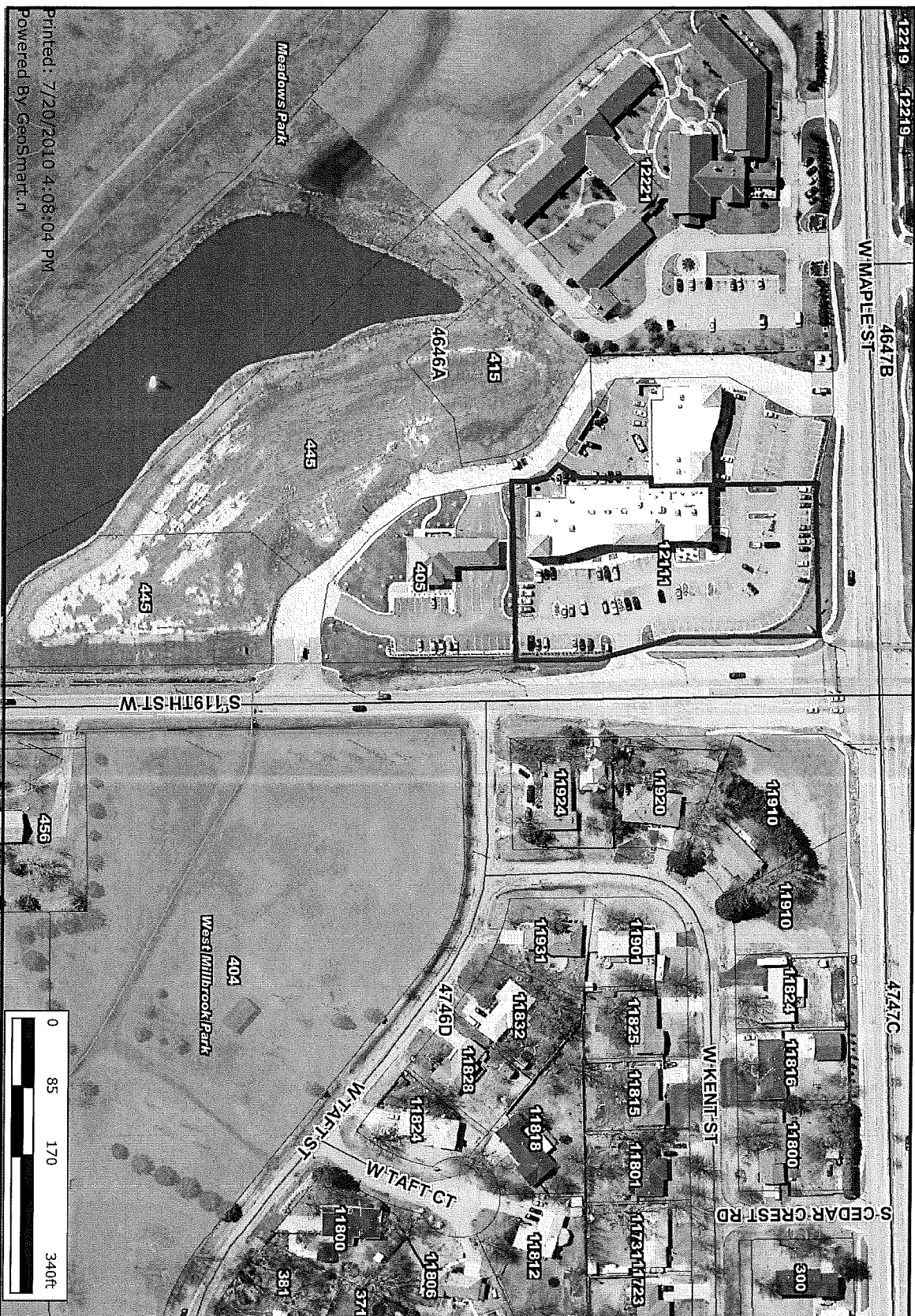


KATHLEEN M. DAVIS  
Kathleen M. Davis, Notary Public

My Commission Expires: Sept. 26, 2011



# 12111 West Maple



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- ☐ Identified Features
- ☐ Property Parcels
- ☐ Roads
- ☐ State Highway
- ☐ US Federal Highway
- ☐ Interstate
- ☐ KRA
- ☐ Arterial
- ☐ Collector
- ☐ Minor
- ☐ Ramp
- ☐ Railroads
- ☐ Quarter Section
- ☐ Waterways
- ☐ Streams
- ☐ Parks
- ☐ Airports
- ☐ SDEASTER, S-DEDATA, ORTH-0
- ☐ City Limits
- ☐ Andale
- ☐ Bel Aire
- ☐ Bentley
- ☐ Cheney
- ☐ Clearwater
- ☐ Colwich
- ☐ Derby
- ☐ Eastborough
- ☐ Garden Plain
- ☐ Goddard
- ☐ Haysville
- ☐ Kechi
- ☐ Maize
- ☐ Mount Hope



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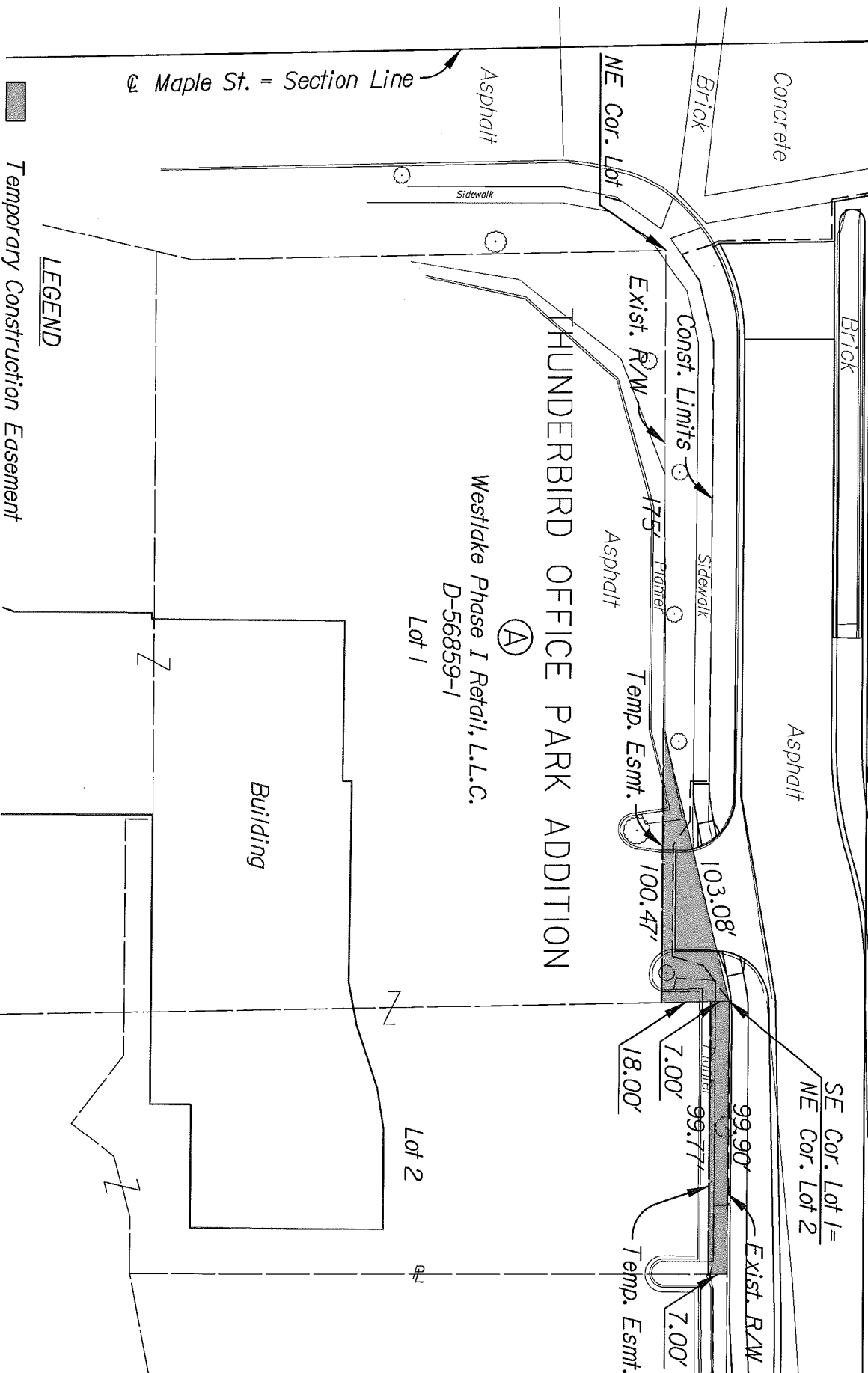
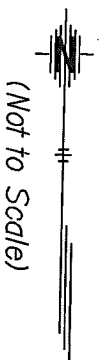


# TRACT MAP D-56859-1

## TEMPORARY CONSTRUCTION EASEMENT

NE Cor. Sec 25,  
T27S, R2W

119th St. W. = Section Line



### LEGEND



Temporary Construction Easement

**CITY OF WICHITA**  
**City Council Meeting**  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Partial Acquisition of 614 South 119<sup>th</sup> Street for the 119<sup>th</sup> Street West from Kellogg to Maple Improvement Project (District V)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

---

**Recommendation:** Approve the acquisition.

**Background:** On August 4, 2009, the City Council approved funding to acquire right-of-way for a project to improve 119<sup>th</sup> Street West from Kellogg to Maple. The improvements will consist of widening the two lane road to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaping will also be installed within available right of way. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of 119th. The project requires a portion of the property at 614 South 119<sup>th</sup> Street West as well as a temporary easement. The property is zoned residential and is unimproved.

**Analysis:** The proposed acquisition area consists of 18,518 square feet. In addition, 125 square feet are needed for the temporary easement. The easement will permit the City access to the site for matching the grades. It will also permit access to the property for the construction of a sidewalk along the property line. The acquisition was appraised at \$1,850 (\$.10 per square foot) and the temporary easement was valued at \$5 (\$0.04 per square foot). The owner rejected the initial offer as the appraised value did not include a value for approximately 8 trees located in the acquisition area. The owner agreed to accept \$4,645, which included compensation for the trees.

**Financial Considerations:** The funding source is General Obligations Bonds and monies administrated by the Kansas Department of Transportation. A budget of \$4,845 is requested, which includes \$4,645 for the acquisition and \$200 for closing costs and related charges.

**Goal Impact:** The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

**Legal Considerations:** The Law Department has approved the contract and temporary construction easement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Contract for Conveyance of Real Estate; 3) Accept the Temporary Construction Easement and 4) Authorize the necessary signatures.

**Attachments:** Contract for Conveyance of Real Estate, Temporary Construction Easement, aerial map, and tract map.

PROJECT: 87-N-0388-01

DATE: July 15, 2010

COUNTY: Sedgwick

TRACT NO.: 10 D-568-UP

## CITY OF WICHITA, KANSAS

### A MUNICIPAL CORPORATION

#### CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT made and entered into this 16th day of July, by and between:

Richard G. Chance, landowner, and the City of Wichita, State of Kansas,

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey unto the City, their duly authorized agents, contractors and assigns the right to enter upon the following described land in Sedgwick County to wit:

A Right-of-way Acquisition Described as Follows:

**Tract D-568-UP      Richard G. Chance      Right-of-Way**

The West 69.88 feet of the South 727 feet of the Northwest Quarter of Section 30, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, containing 0.38 acres more or less, exclusive of existing right-of-way.

TOGETHER WITH;

Beginning at a point 86.29 feet East of the West line of the Northwest Quarter of Section 30, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, and 656.17 feet North of the South line of said Northwest Quarter; thence West, parallel with said South line, a distance of 16.41 feet to a point 69.88 feet East of said West line; thence South, parallel with said West line, a distance of 239.50 feet; thence Northerly for a distance of 240.40 feet to the point of beginning, containing 1,965.43 square feet more or less.

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City and its authorized representatives from any and all costs, liabilities, expenses, suits, judgements, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property until the relocation is completed. In no event will the land owner(s) be required to move until the City becomes legally entitled to the property.

The City agrees to purchase the above described real estate, and to pay therefore, the following amount within \_\_\_\_ days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately <u>18,518 sq. ft.</u> for right-of-way	\$ 4,630.00
<u>125 sq. ft.</u> for Temporary Easement	\$ 15.00
Cost to Cure:	\$
Damages including but not limited to:	

---

**TOTAL      \$ 4,645.00**

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

**IN WITNESS WHEREOF** The parties have hereunto signed this agreement the day and year first above written.

**LANDOWNER:**

  
Richard G. Chance

City of Wichita  
County of Sedgwick  
State of Kansas

**BUYER:**

City of Wichita, KS, a municipal corporation

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Carl Brewer, Mayor

**ATTEST:**

---

Karen Sublett, City Clerk

Approved as to form:

---

Gary E. Rebenstorf, Director of Law

**MEMORANDA**


Exact and full name of owner, as it appears of record:

Richard G. Chance

If mortgage or other liens, show names of holders:

**REMARKS:**

RECOMMENDED BY:

  
Dennis Keegan, Acquisition Agent



## TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 16<sup>th</sup> day of July, 2010, by and between Richard G. Chance, Grantor and the City of Wichita, Kansas, a municipal corporation, Grantee.


WITNESSETH: That the said Grantor, in consideration of the sum of One Dollar and No Cents (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the Grantee a temporary right-of-way for the purpose of constructing, maintaining, and repairing road right-of-way, over, along and under the following described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

**Tract D-568-UP**  
**Richard G. Chance**  
**Temporary Construction Easement**

Beginning at a point 69.88 feet East of the West line of the Northwest Quarter of Section 30, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, and 80 feet North of the South line of said Northwest Quarter; thence North, parallel with said West line, a distance of 25 feet; thence East, parallel with said South line, a distance of 5 feet; thence South, parallel with said West line, a distance of 25 feet; thence West, parallel with said South line, a distance of 5 feet to the point of beginning, containing **124.98 square feet** more or less.

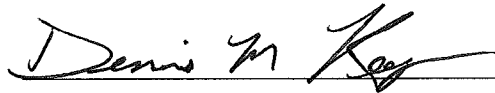
And said Grantee, successors and assigns, is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such roadway and utility improvements beginning the date this easement is executed. This temporary easement shall expire automatically at the end of construction or at three years from execution of said document, whichever comes first.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

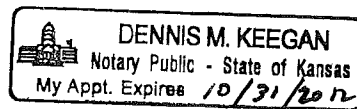
  
Richard G. Chance

STATE OF KANSAS     )  
                                  ) ss:  
SEDGWICK COUNTY    )

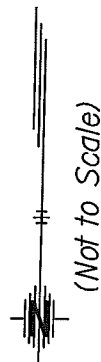
This instrument was acknowledged before me on the 16<sup>TH</sup> day of July, 2010 by  
Richard G. Chance of Sedgwick County Kansas.

  
DENNIS M. KEEGAN, Notary Public

My Commission Expires: October 31, 2012



TRACT MAP D-568-UP



Proposed Right-of-Way

## Temporary Construction Easement

Contractor will remove trees as needed for construction.

March 11, 2010



# 614 South 119th Street West



☐ Identified Features

☐ Property Parcels

Roads

State Highway

US Federal Highway

Interstate

KTA

Arterial

Collector

Minor

Ramp

Railroads

Quarter Section

Waterways

Streams

Parks

Airports

SDERASTER.S-DEDATA.ORTH-01FT

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City Limits

Andale

Bel Aire

Bentley

Cheney

Clearwater

Colwich

Derby

Eastborough

Garden Plain

Goddard

Haysville

Kechi

Maize

Mount Hope

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



**CITY OF WICHITA**  
**City Council Meeting**  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Partial Acquisition of 1410 and 1412 West 47<sup>th</sup> Street South for the 47<sup>th</sup> Street South from Meridian to Seneca Improvement Project (District IV)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the acquisition.

**Background:** On December 9, 2008, the City Council approved funding to acquire right-of-way for a project to improve 47<sup>th</sup> Street South from Meridian to Seneca. The project will be enhanced from two lanes with open ditches to five lanes. The five lanes of traffic are reduced to three lanes in the eastern portion of the corridor. Landscaping will also be installed in the available right of way. Ditches will be replaced with a curb and gutter storm water system and sidewalks will be built along both the north and south sides of 47th. The project requires the acquisition of the south 20 feet of the property identified as 1410 and 1412 West 47<sup>th</sup> Street South. The subject property consists of 2.34 acres and is improved with two residential structures together with outbuildings. The residential structures were built in 1935. As a result of the 20 foot wide acquisition, the improvements will be within a few feet of the proposed right-of-way line. Fencing and mature trees will also be impacted by the project.

**Analysis:** The proposed acquisition consists of a 6,808 square foot acquisition area and a 1,406 square foot temporary easement for construction. The owner was offered the appraised value of the proposed taking at \$25,000. This amount is comprised of \$6,000, or \$0.88 per square foot for the right-of-way; \$100, or \$0.07 per square foot for the temporary easement; and \$18,900 as damages to the gravel driveway, loss of mature trees and fencing. The owner rejected the \$25,000 offer and has agreed to convey the necessary acquisition for \$28,000. The additional \$3,000 is based on the lowest estimate to provide a buffer between the improvements and the proposed right-of-way line.

**Financial Considerations:** The funding source is General Obligations Bonds and Federal Grants administrated by the Kansas Department of Transportation. A budget of \$29,000 is requested. This includes \$28,000 for acquisition and \$1,000 for administrative costs such as title insurance and closing costs.

**Goal Impact:** The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

**Legal Considerations:** The Law Department has approved the real estate purchase agreement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) Approve the Real Estate Agreement; 2) Authorize all necessary signatures; and 3) Approve the budget.

**Attachments:** Aerial map, tract map and Real Estate Agreement.

## REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT, Made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2010 by and between John Phillip Steele, an individual, hereinafter referred to as "Seller," whether one or more, and City of Wichita, Kansas, a municipal corporation, hereinafter referred to as "Buyer," whether one or more.

**WITNESSETH:** That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by warranty deed for road right-of-way and a temporary easement for the construction and improvements of 47<sup>th</sup> Street Road Improvement Project within, upon and under the following described tract, to wit:

Road right-of-way:

Beginning 1362 feet West of the SE corner of the SE Quarter of Section 18, Township 28 South, Range 1 East of the 6<sup>th</sup> PM, Sedgwick County, KS; thence North 330 feet; thence East 342.5 feet; thence South 330 feet; thence West to the Point of Beginning subject to the road right-of-way. Said area contains 6808.2 square feet, more or less.

Temporary construction easement:

Commencing at the SE corner of Section 18, Township 28 South, Range 1 East of the 6<sup>th</sup> PM, Sedgwick County, KS; thence S89°53'03"W (assumed) along the south line of said Section 18 a distance of 1362 feet; thence N00°03'03"E a distance of 50 feet to the Point of Beginning; thence continuing N00°03'03"E a distance of 7.5 feet; thence S86°31'29"E a distance of 71.85 feet; thence N89°53'03"E parallel to the south line of said Section 18 a distance of 73.73 feet; thence N44°23'53"E a distance of 14.72 feet; thence N89°53'03"E parallel to the south line of said Section 18 a distance of 10.94 feet; thence S45°06'57"E a distance of 14.85 feet; thence N89°53'03"E parallel to the South line of said Section 18 a distance of 163.82 feet; thence S00°03'03"W a distance of 3 feet; thence S89°53'03"W parallel to the south line of said Section 18 a distance of 340.41 feet to the Point of Beginning. Said area contains 1406.7 square feet, more or less.

2. The Buyer hereby agrees to purchase and pay to the Seller as consideration for the conveyance to Buyer the above-described tracts together damages and cost-to-cure items including but not limited to proximity, fencing, landscaping, trees, and gravel driveway for Twenty-Eight Thousand Dollars and no/100 (\$28,000) in the manner following, to-wit: cash at closing.

3. A complete abstract of title certified to date, or a title insurance company's commitment to insure, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to Property Management Division- for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.

4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

5. It is understood and agreed between the parties hereto that time is of the essence and that this transaction shall be consummated on or before August 13, 2010.

6. The Seller further agrees to convey the above-described tracts with all the improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Possession to be given to Buyer on or before closing date.

8. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by seller and 100% by buyer. Buyer will pay 100% closing costs.

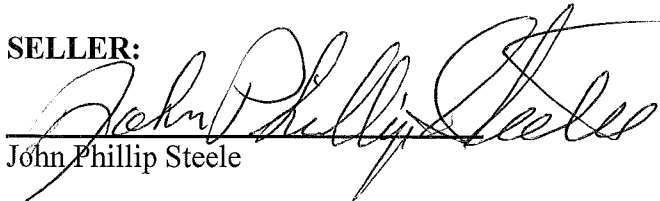
9. Site Assessment

A. At any time prior to the closing of this agreement, the buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the Property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the Property, the buyer shall have the right to void this agreement upon notice to the seller, in which event neither party shall be under any further obligation to the other, with the exception that seller shall return to buyer any deposit made hereunder. The buyer or its agents shall have the right, without the obligation, to enter upon the Property prior to closing to undertake an environmental site assessment or testing of the Property, at the buyer's sole expense.

B. Provided, however, buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. The buyer shall, if buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

**WITNESS OUR HANDS AND SEALS** the day and year first above written.

**SELLER:**

  
John Phillip Steele

**BUYER:**

\_\_\_\_\_  
Carl Brewer, Mayor

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

**Approved as to Form:**

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

# EXHIBIT

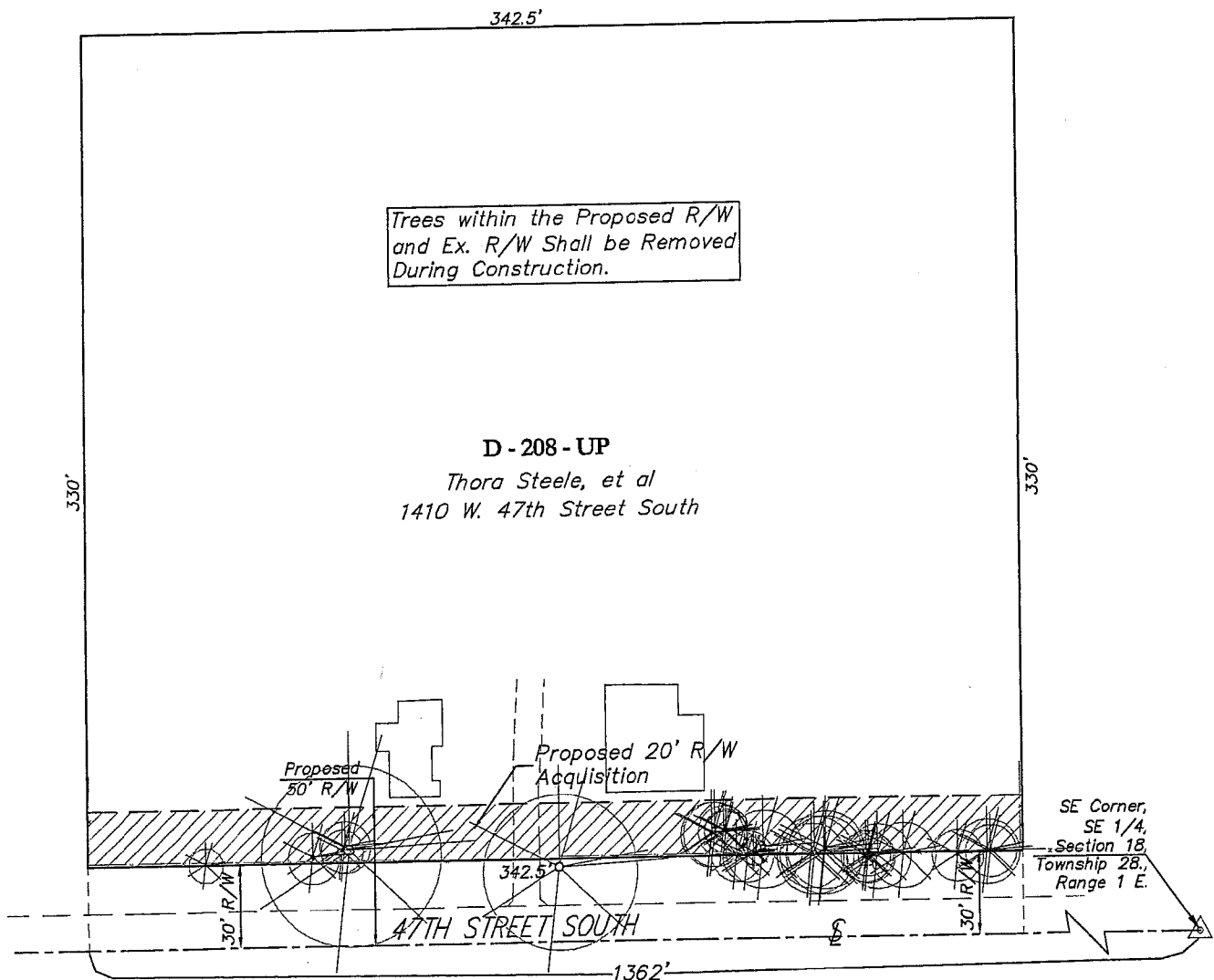
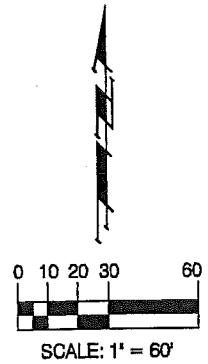
## LEGAL DESCRIPTION:

A Proposed 20.00 feet Right-of-Way Acquisition in Wichita, Sedgwick County, Kansas, Described as Follows:

The north 20.00 feet of the South 50.00 feet of the following described tract of land:

Beginning 1362 feet West of the SE Corner of the SE Quarter of Section 18, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence North 330 feet; thence East 342.5 feet; thence South 330 feet; thence West to the point of beginning subject to Road Right of Way of Record.

Containing 6,808.2 Sq. Ft., more or less.



**Baughman Company, P.A.**  
 315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149  
**Baughman** ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

Project Number 05-10-E397

F:eng/MacArthur Meridian to Seneca/Exhibits/Steele.dwg

DATE: 2/11/10

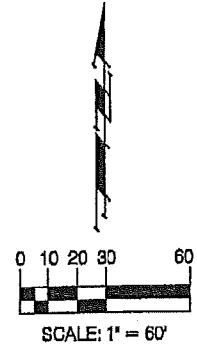


# EXHIBIT

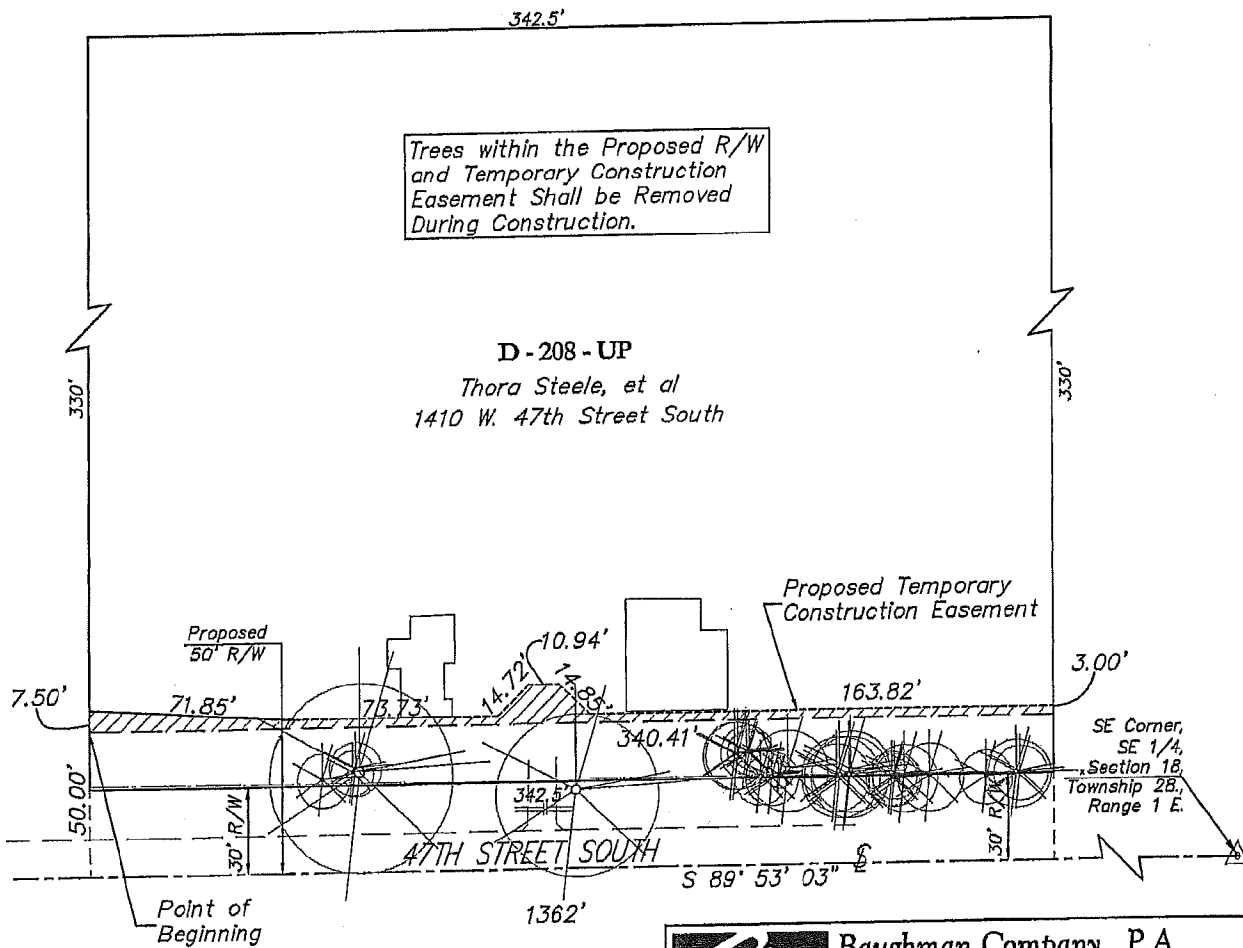
## LEGAL DESCRIPTION:

A Temporary Construction Easement in Wichita, Sedgwick County, Kansas,  
Described as Follows:

Commencing at the SE Corner of Section 18, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence S 89° 53' 03" W (assumed) along the south line of said Section 18 a distance of 1362 feet; thence N 00° 03' 03" E a distance of 50.00 feet to the Point of Beginning; thence continuing N 00° 03' 03" E a distance of 7.50 feet; thence S 86° 31' 29" E a distance of 71.85 feet; thence N 89° 53' 03" E parallel to the south line of said Section 18 a distance of 73.73 feet; thence N 44° 23' 53" E a distance of 14.72 feet; thence N 89° 53' 03" E parallel to the south line of said Section 18 a distance of 10.94 feet; thence S 45° 06' 57" E a distance of 14.85 feet; thence N 89° 53' 03" E parallel to the south line of said Section 18 a distance of 163.82 feet; thence S 00° 03' 03" W a distance of 3.00 feet; thence S 89° 53' 03" W parallel to the south line of said Section 18 a distance of 340.41 feet to the Point of Beginning.



Containing 1,406.7 Sq. Ft., more or less.



**Baughman Company, P.A.**  
315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149  
**Baughman** ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

Project Number 05-10-E397

F:\eng\MacArthur Meridian to Seneca\Exhibits\Steele-Temp.dwg

DATE: 2/11/10



# 1410 W 47TH ST S

## D208UP

- Selected Features
- ☐ Property Parcels
- Roads
- ☒ State Highway
- ☒ US Federal Highway
- ☒ Interstate
- ☒ KTA
- ☒ Arterial
- ☒ Collector
- ☒ Minor
- ☒ Ramp



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Powered by: GeoSmart



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



**CITY OF WICHITA**  
**City Council Meeting**  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Partial Acquisition of 1341 South 119<sup>th</sup> Street for the 119<sup>th</sup> Street West from Kellogg to Maple Improvement Project (District V)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the acquisition.

**Background:** On August 4, 2009, the City Council approved funding to acquire right-of-way for a project to improve 119<sup>th</sup> Street West from Kellogg to Maple. The improvements will consist of widening the two lane road to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaping will also be installed within available right of way. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of 119th. The project requires a portion of the property at 1341 South 119<sup>th</sup> Street West as well as a temporary easement. The property is zoned residential and is improved with a single family house. The improvements will not be directly impacted by the project.

**Analysis:** The proposed acquisition area consists of 2,000 square feet. In addition, 320 square feet are needed for the temporary easement. The easement will permit the city access to the site for matching the grades. It will also permit access to the property for the construction of a sidewalk along the property line. The acquisition was appraised at \$2,000 (\$.75 per square foot) and the temporary easement was valued at \$20 (\$0.06 per square foot). Additionally, the project will impact landscaping, trees and fencing on the site. These damages were appraised at \$17,500 for a total of \$19,020. The owner has accepted the offer.

**Financial Considerations:** The funding source is General Obligations Bonds and monies administrated by the Kansas Department of Transportation. A budget of \$19,220 is requested. This includes \$19,020 for the acquisition and \$200 for closing costs and related charges.

**Goal Impact:** The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

**Legal Considerations:** The Law Department has approved the contract and temporary construction easement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Contract for Conveyance of Real Estate; 3) Accept the Temporary Construction Easement and 4) Authorize the necessary signatures.

**Attachments:** Real Estate Contract for Conveyance, Temporary Construction Easement, aerial map, and tract map.

PROJECT: 87-N-0388-01

DATE: July 15, 2010

COUNTY: Sedgwick

TRACT NO.: 6

D-796-UP

## CITY OF WICHITA, KANSAS

### A MUNICIPAL CORPORATION

#### CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT made and entered into this 15th day of July, by and between:

Larry O. Gibson and Cynthia J. Gibson, husband and wife, landowners,  
and the City of Wichita, State of Kansas,

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey unto the City, their duly authorized agents, contractors and assigns the right to enter upon the following described land in Sedgwick County to wit:

A Right-of-way Acquisition Described as Follows:

**Tract D-796-UP      Larry O. & Cynthia J. Gibson      Right-of-Way**

Commencing from a point on the East line of the Southeast Quarter of Section 25, Township 27 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, said point being 1410 feet North of the North right-of-way line of U.S. Highway 54 per Condemnation Case A-38302; thence West, parallel with said North highway right-of-way line, a distance of 40 feet to the point of beginning; thence continuing West, parallel with said North highway right-of-way line, a distance of 10 feet; thence North, parallel with said East line, a distance of 200 feet; thence East, parallel with said North highway right-of-way line, a distance of 10 feet; thence South, parallel with said East line, a distance of 200 feet to the point of beginning, containing **2,000.00 square feet more or less.**

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City and its authorized representatives from any and all costs, liabilities, expenses, suits, judgements, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property until the relocation is completed. In no event will the land owner(s) be required to move until the City becomes legally entitled to the property.

The City agrees to purchase the above described real estate, and to pay therefore, the following amount within \_\_\_\_ days after the warranty deed conveying said property free of encumbrance has been delivered.

## **TEMPORARY CONSTRUCTION EASEMENT**

THIS EASEMENT made this 12<sup>th</sup> day of July, 2010, by and between Larry O. Gibson and Cynthia J. Gibson, husband and wife, Grantor and the City of Wichita, Kansas, a municipal corporation, Grantee.

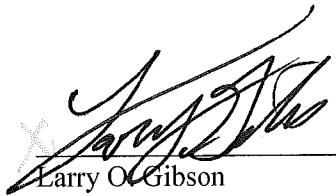
WITNESSETH: That the said Grantor, in consideration of the sum of One Dollar and No Cents (\$1.00) and other good and valuable consideration, the receipt whereof is here by acknowledged, do hereby grant and convey unto the Grantee a temporary right-of-way for the purpose of constructing, maintaining, and repairing road right-of-way, over, along and under the following described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

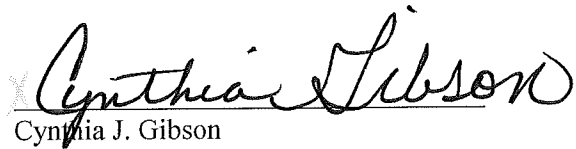
**Tract D-796-UP**  
**Larry O. & Cynthia J. Gibson**  
**Temporary Construction Easement**

Commencing from a point on the East line of the Southeast Quarter of Section 25, Township 27 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, said point being 1410 feet North of the North right-of-way line of U.S. Highway 54 per Condemnation Case A-38302; thence West, parallel with said North highway right-of-way line, a distance of 40 feet; thence North, parallel with said East line, a distance of 35 feet to the point of beginning; thence West, perpendicular to said East line, a distance of 10 feet; thence North, parallel with said East line, a distance of 32 feet; thence East, perpendicular to said East line, a distance of 10 feet; thence South, parallel with said East line, a distance of 32 feet to the point of beginning, containing 320 square feet more or less.

And said Grantee, successors and assigns, is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such roadway and utility improvements beginning the date this easement is executed. This temporary easement shall expire automatically at the end of construction or at three years from execution of said document, whichever comes first.

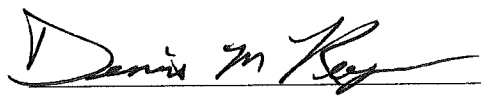
IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

  
Larry O. Gibson

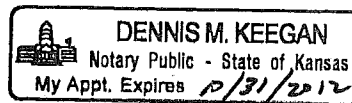
  
Cynthia J. Gibson

STATE OF KANSAS     )  
                                  ) ss:  
SEDGWICK COUNTY    )

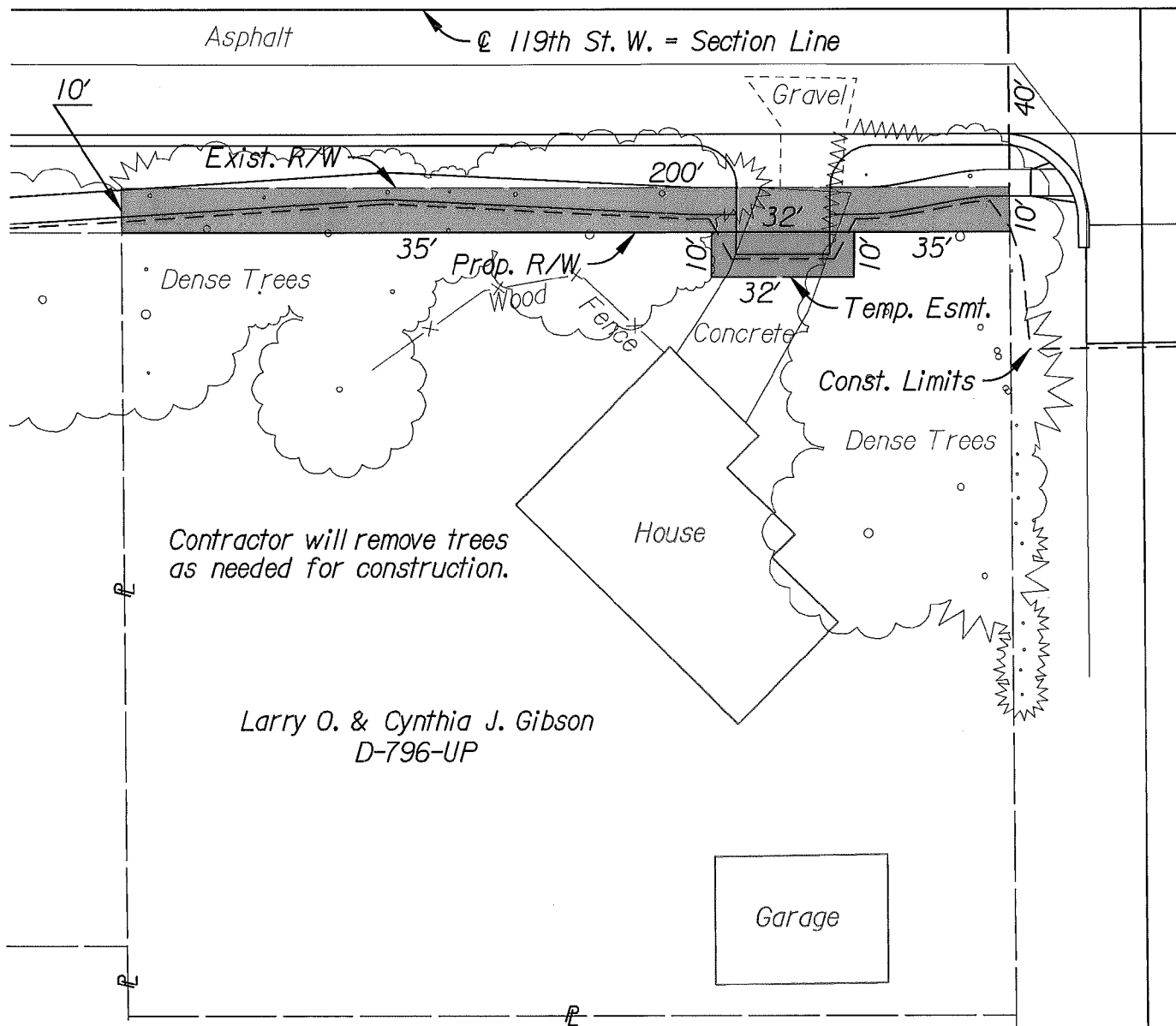
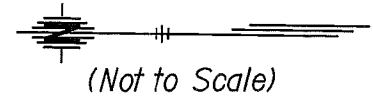
This instrument was acknowledged before me on the 16<sup>TH</sup> day of July, 2010 by  
Larry O. Gibson and Cynthia J. Gibson, husband and wife of Sedgwick County Kansas.

  
Dennis M. Keegan, Notary Public

My Commission Expires: October 31, 2012



TRACT MAP D-796-UP  
 RIGHT-OF-WAY, TEMPORARY CONSTRUCTION EASEMENT



LEGEND

- Proposed Right-of-Way
- Temporary Construction Easement

March 4, 2010





# 1341 South 119th West



<input type="checkbox"/> Identified Features	Roads	Railroads	Quarter Section	Waterways	Streams	Parks	Airports	SDERASTER.S-DEDATA.ORTH-01FT	SDERASTER.S-DEDATA.ORTH-0	City Limits
<input type="checkbox"/> Property Parcels	State Highway	US Federal Highway	Interstate	KTA	Arterial	Collector	Minor	Ramp		Andale
										Bel Aire
										Bentley
										Cheney
										Clearwater
										Colwich
										Derby
										Eastborough
										Garden Plain
										Goddard
										Haysville
										Kechi
										Maize
										Mount Hope

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**CITY OF WICHITA**  
**City Council Meeting**  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Partial Acquisition for Right-of-Way at the Northwest Corner of 119<sup>th</sup> Street and West Pawnee for the 119<sup>th</sup> Street, Pawnee Avenue to Kellogg Improvement Project (District IV)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

---

**Recommendation:** Approve the acquisition.

**Background:** On May 11, 2010, the City Council approved the design concept and the funding to acquire right-of-way for the road improvement project 119<sup>th</sup> Street between Pawnee and Kellogg. The project will provide four through lanes on 119<sup>th</sup> Street and a traffic signal at the intersection of Pawnee and 119<sup>th</sup>. Landscaped medians, sidewalks and a bike path will also be constructed. The corridor is improved with residential properties, agricultural land and a church. It is necessary to acquire an irregular shaped parcel from the tract at the northwest corner of 119<sup>th</sup> Street and Pawnee for road right-of-way. The ten acre property is currently vacant.

**Analysis:** The proposed acquisition consists of 31,607 square feet. Trees will be removed from the acquisition area where it is necessary however, no other improvements exist. The owner agreed to convey the necessary properties for the estimated market value of \$3,160. This amount is comprised using \$0.10 per square foot as the value of the land.

**Financial Considerations:** The funding source for the project is General Obligation Bonds. A budget of \$3,810 is requested, which includes \$3,160 for acquisition and \$650 for closing costs and title insurance.

**Goal Impact:** The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

**Legal Considerations:** The Law Department has approved the real estate purchase agreement as to form.

**Recommendation/Action:** It is recommended that the City Council; 1) Approve the Real Estate Agreement; 2) Authorize all necessary signatures; and 3) Approve the budget.

**Attachments:** Real Estate Agreement, tract map and aerial map.

## REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2010 by and between Christopher J. Redmond and Rosalynn L. Redmond, husband and wife, hereinafter referred to as "Seller," whether one or more, and City of Wichita, Kansas, a municipal corporation, party of the Second Part; hereinafter referred to as "Buyer," whether one or more.

**WITNESSETH:** That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a quit claim deed for the following described real property as road right-of-way situated in Sedgwick County, Kansas, to wit:

Beginning at the Southeast corner of the Southeast Quarter of Section 36, Township 27 South, Range 2 West of the 6<sup>th</sup> Principal Meridian, Sedgwick County, Kansas; thence on an assumed bearing of S89°41'14"W, along the South line of said Quarter, a distance of 660.30 feet; thence N01°24'26"E, parallel with the East line of said Quarter, a distance of 50.02 feet; thence N89°41'14"E, parallel with and 50 feet North of said South line, a distance of 310.14 feet to a point 350 feet West of said East line; thence N75°45'26"E for a distance of 103.85 feet to a point 75 feet North of said South line and 250 feet West of said East line; thence N89°41'14"E, parallel with said South line, a distance of 150.08 feet; thence N45°32'50"E for a distance of 35.88 feet to a point 75 feet West of said East line; thence N01°24'26"E, parallel with said East line, a distance of 150.08 feet to a point 250 feet North of said South line; thence N15°20'13"E for a distance of 103.85 feet to a point 50 feet West of said East line and 350 feet North of said South line, thence N01°24'26"E, parallel with said East line, a distance of 310.14 feet; thence S88°35'34"E, parallel with said South line, a distance of 50.02 feet to a point on said East line; thence S01°24'26"W, along said East line, a distance of 660.30 feet to the point of beginning, containing 1.738 acres (75,721.59 sq ft), which includes 1.012 acres (44,113.87 sq ft) of existing right-of-way resulting in an acquisition of 0.726 acres (31,607.72 sq ft), more or less.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance of the above-described real property, and any damages to the remainder, the sum of Three Thousand One Hundred Sixty Dollars and No Cents (\$3,160) in the manner following, to-wit: cash at closing.

3. A complete abstract of title certified to date, or a title insurance company's commitment to insure, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to Property Management Division for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.


Buyer will order title at its cost.

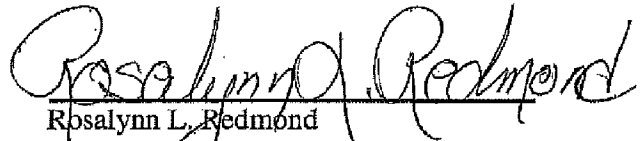
4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

5. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before August 15, 2010.
6. The Seller further agrees to convey the above-described premises with all the improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.
7. Possession to be given to Buyer on closing date.
8. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by seller and 100 % by Buyer. Buyer will pay 100% closing costs.
9. Buyer hereby agrees to install a curb cut during construction of the 119<sup>th</sup> Street; Pawnee to Kellogg Road Improvement Project for access to the field. Said access point is designated on attached aerial map of subject property, Exhibit A. Buyer agrees to allow access to parent parcel during construction.

**WITNESS OUR HANDS AND SEALS** the day and year first above written.

**SELLER:**

  
\_\_\_\_\_  
Christopher J. Redmond

  
\_\_\_\_\_  
Rosalynn L. Redmond

**BUYER:**

By Direction of the City Council

**ATTEST:**

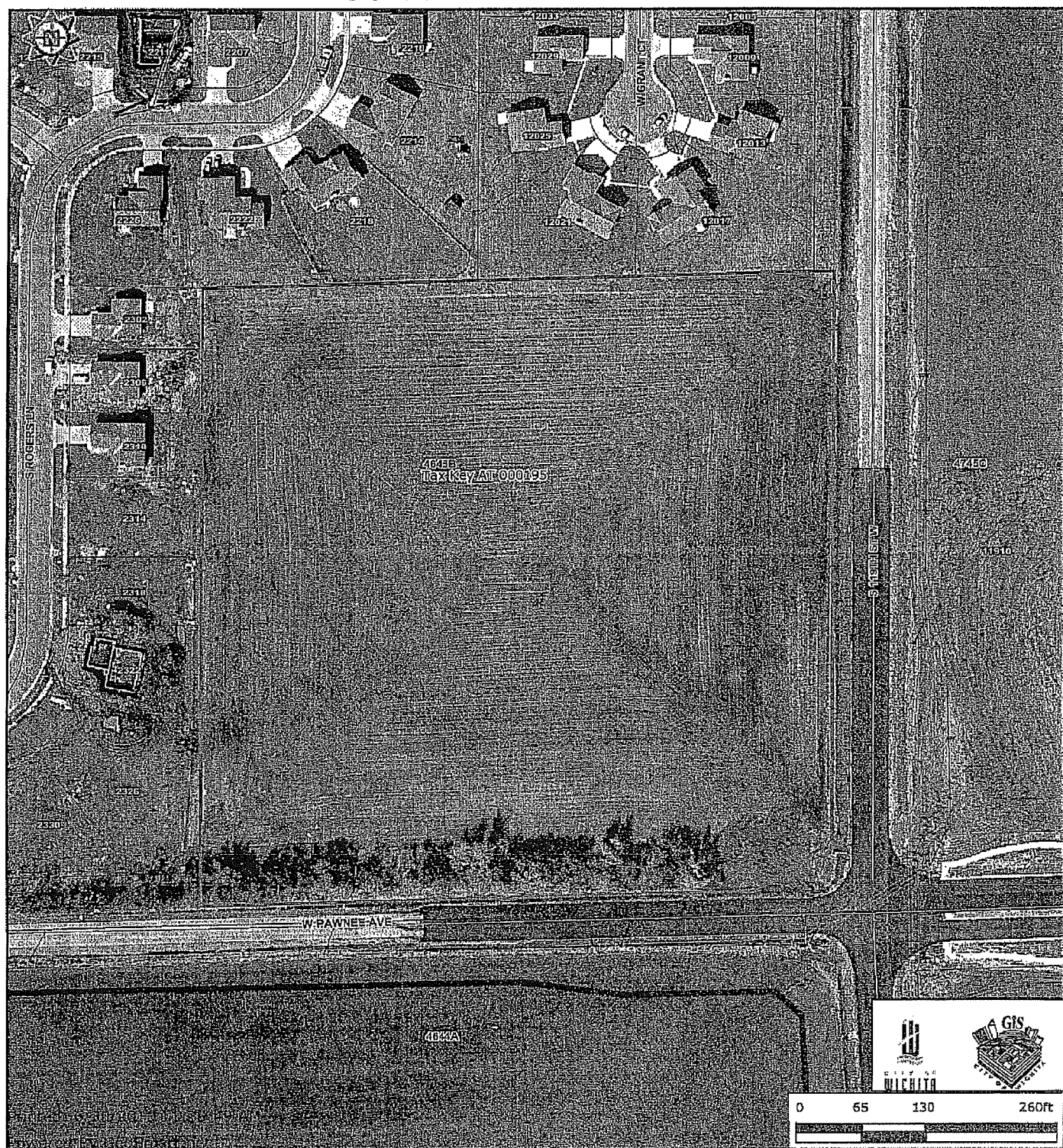
\_\_\_\_\_  
Carl Brewer, Mayor

\_\_\_\_\_  
Karen Sublett, City Clerk

**Approved as to Form:**

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

EXHIBIT A  
SG CO TAX KEY AT 000195



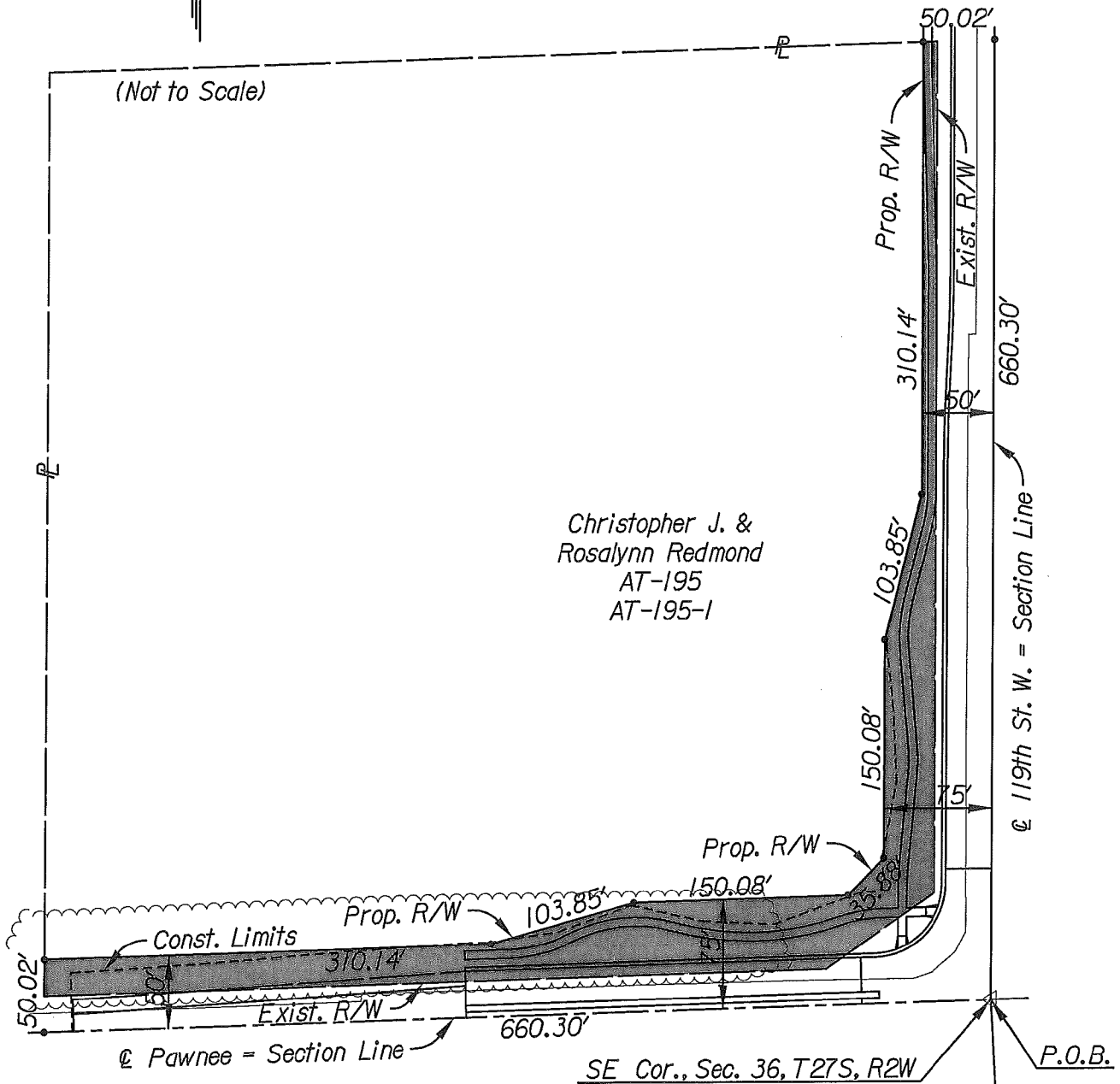
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# TRACT MAP AT-195

## RIGHT OF WAY



(Not to Scale)



### LEGEND



Proposed Right of Way

Contractor will remove trees  
as needed for construction.

Mar. 3, 2010

**Christopher J. & Rosalynn L. Redmond**

**5009 W 68<sup>th</sup> St.**

**Prairie Village, KS 66208-1403**

**AT-195**

**RIGHT-OF-WAY:**

Beginning at the Southeast corner of the Southeast Quarter of Section 36, Township 27 South, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence on an assumed bearing of S 89°41'14"W, along the South line of said Quarter, a distance of 660.30 feet; thence N 01°24'26"E, parallel with the East line of said Quarter, a distance of 50.02 feet; thence N 89°41'14"E, parallel with and 50 feet North of said South line, a distance of 310.14 feet to a point 350 feet West of said East line; thence N 75°45'26"E for a distance of 103.85 feet to a point 75 feet North of said South line and 250 feet West of said East line; thence N 89°41'14"E, parallel with said South line, a distance of 150.08 feet; thence N 45°32'50"E for a distance of 35.88 feet to a point 75 feet West of said East line; thence N 01°24'26"E, parallel with said East line, a distance of 150.08 feet to a point 250 feet North of said South line; thence N 15°20'13"E for a distance of 103.85 feet to a point 50 feet West of said East line and 350 feet North of said South line, thence N 01°24'26"E, parallel with said East line, a distance of 310.14 feet; thence S 88°35'34"E, parallel with said South line, a distance of 50.02 feet to a point on said East line; thence S 01°24'26"W, along said East line, a distance of 660.30 feet to the point of beginning, containing 1.738 acres (75721.59 sq. ft.), which includes 1.012 acres (44113.87 sq. ft.) of existing right of way, resulting in an acquisition of 0.726 acres (31607.72 sq. ft.), more or less.

City of Wichita  
City Council Meeting  
August 3, 2010

**TO:** Mayor and City Council  
**SUBJECT:** West Douglas Park. (District IV)  
**INITIATED BY:** Department of Park and Recreation  
**AGENDA:** Consent

---

**Recommendation:** Approve the amendment of Bonding Resolution 08-516.

**Background:** Bonding Resolution 08-516 was approved by City Council on November 4, 2008. It reduced the CIP funding to West Douglas Park from \$450,000 to \$275,000 and reallocated \$100,000 to Aley Skate Park and \$75,000 to Alice Wall Memorial Park. The Park Department was awarded Community Development Block Grant (CDBG) funding in the amount of \$175,000 for West Douglas Park.

**Analysis:** The last sentence of Section 2 of Bonding Resolution 08-516, cites K.S.A. 12-689 (main trafficway bonding) in error. This amendment removes that statement. Section 2 consistently cites Charter Ordinance 156 as the authority.

**Financial Consideration:** None

**Goal Impact:** The park development, improvements and renovations will improve the Quality of Life for citizens. The investment will also help maintain and optimize public facilities and assets.

**Legal Consideration:** The Law Department has approved the resolution as to form.

**Recommendation/Actions:** It is recommended that the City Council approve the amended Bonding Resolution.

**Attachment:** Amended Bonding Resolution

First Published in the Wichita Eagle on August 10, 2010

RESOLUTION NO. 10-210

A RESOLUTION AMENDING RESOLUTION NO. 08-516, AND  
AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT  
LARGE FOR THE IMPROVEMENT AND RENOVATION OF PARK FACILITIES  
AND AMENITIES IN WEST DOUGLAS PARK

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That Section 2 of Resolution No. 08-516, amending Section 2 of Resolution 07-506 is hereby amended to read as follows:

SECTION 2: That Section 2 of Resolution 07-506 is hereby amended to provide, "The cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated at \$450,000, exclusive of the cost of interest on borrowed money, with \$175,000 expected to be paid from Community Development Block Grant (CDBG) funds and \$275,000 to be paid by the City. Said City share, when ascertained, shall be borne by the City of Wichita at large by the issuance and sale of general obligation bonds under the authority of City of Wichita Charter Ordinance No. 156."

SECTION 2: That the prior version of Section 2 of Resolution No. 08-516, amending Section 2 of Resolution No. 07-506, is hereby repealed.

SECTION 3: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this 3<sup>rd</sup> day of August, 2010.

---

CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY REBENSTORF, DIRECTOR OF LAW



City of Wichita  
City Council Meeting  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Firefighter Charitable Foundation grant. (Districts I, II, IV, V, and VI)

**INITIATED BY:** Department of Park and Recreation

**AGENDA:** Consent

---

**Recommendation:** Approve the grant application process.

**Background:** The Firefighters Charitable Foundation offers a rolling grant for the purchase of Automatic External Defibrillators (AED). The grant is available nationally to any organization that would like to implement an AED program for their community. The devices are designed so that a person with no usage training can effectively provide assistance.

**Analysis:** The Department of Park and Recreation is requesting City Council approval to apply for an online AED grant to place Lifepak CR+ AED devices at all eleven Municipal Swimming Pools. The Lifepak CR+ has been chosen due to the compatibility with Sedgwick County EMS and City Fire Departments. This model is the same one purchased for the Intrust Arena and would provide added life saving ability for all citizens utilizing the pools. In 2009, approximately 77,000 people utilized the Municipal Swimming Pools. Lifeguards are trained in AED usage.

**Financial Consideration:** Grant funds would purchase the AED devices. A quote from AED Authority as the authorized distributor for Lifepak defibrillators has been received for \$19,074. There is an eight year warranty provided and ongoing maintenance and battery replacement costs would be \$198 per device every other year and would be paid by general funds in the pool's operating budget.

**Goal Impact:** The AED devices would provide added life saving ability to all Municipal Swimming Pools. The Safety and Quality of Life for all citizens would be improved.

**Legal Consideration:** The grant application and/or accompanying documents have been reviewed by the law department and approved as to form.

**Recommendation/Actions:** Approve the grant application process.

**Attachment:** Grant application.

**FFCF / APPLY FOR GRANT FORM**

Full Name:	Douglas R. Kupper
Organization Name:	City of Wichita Department of Park and Recreation
Daytime Telephone:	316-268-4628
Fax Number:	316-858-7768
Street:	455 North Main, 11th Floor
City State Zip:	Wichita, Kansas 67202
Email Address:	lsack@wichita.gov
Amount Requested: \$	19,074.00
Specifically, what will grant be used for? Describe in detail:	
<input type="button" value="Send Grant Request"/>	

The City of Wichita Department of Park and Recreation operates 11 municipal swimming pools within the city limits.

Aley Pool	1800 South Seneca
Boston Pool	6700 East Boston
College Hill Pool	304 South Circle Drive
Country Acres Pool	750 North Country Acres
Edgemoor Pool	5811 East Ninth Street
Evergreen Pool	2700 North Woodland
Harvest Pool	9500 Provincial Lane
Linwood Pool	1900 South Hydraulic
McAdams Pool	1556 North Ohio
Minisa Pool	1350 North Jeanette
Orchard Pool	1062 North Clara

We serve citizens of all ages and swimming abilities. Total May through August 2009 attendance at all swimming pool locations was 77,085. Attendance remains steady or increased for 2010.

All municipal swimming pools are staffed with certified lifeguards trained in AED usage, but none of our locations are equipped with AED life saving devices. In June 2010, there have been 1 adult and 5 youth drowning fatalities in private pools within the city. To increase safety and provide additional life saving measures, we are requesting funding for 11 AED devices for placement at all municipal swimming pools. The devices will provide emergency life saving capability for the citizens of Wichita.

AED Authority Quote

Physio-Control Lifepak CR+	11 each @	\$1,595	\$17,545.00
Infant/Child Reduced Energy Electrodes	11 each @	\$ 139	<u>\$ 1,529.00</u>
<b>Total Request</b>			<b>\$19,074.00</b>

City of Wichita  
City Council Meeting  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Resolution Authorizing Filing of Grant Application for the Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) Grant

**INITIATED BY:** Wichita Transit

**AGENDA:** Consent

---

**Recommendation:** Approve resolution authorizing filing of grant application.

**Background:** The Federal Transit Administration (FTA) grant application process requires a resolution by the governing body authorizing staff to file grant applications to receive funds and administer the grant's program. The purpose of this resolution is to authorize staff to file for eligible federal funds for the support of the City's transit services. Transit staff held a public hearing on July 30, 2010, with no adverse comments. The TIGGER program is an 83% federal and 17% local match grant that is awarded on a competitive basis.

**Analysis:** The proposed resolution authorizes funding to support the purchase of five hybrid electric propulsion buses.

**Financial Consideration:** The total grant request is \$2,625,000. The federal share is \$2,178,750, and the local match of \$446,250 will be the City of Wichita's share in general obligation bonding.

**Goal Impact:** Funding from this grant will support Wichita Transit's role in providing for an Efficient and Effective Infrastructure by maintaining and optimizing public assets. Wichita Transit is also supporting efforts to reduce fuel costs and energy by purchasing hybrid buses.

**Legal Consideration:** The Law Department has reviewed and approved the resolution as to form.

**Recommendation/Actions:** It is recommended that the City Council approve the resolution and authorize the necessary signatures.

**Attachments:** Resolution.

RESOLUTION NO. 10-211

A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION, AN OPERATING ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FOR FEDERAL TRANSPORTATION ASSISTANCE AUTHORIZED BY 49 U.S.C. CHAPTER 53, TITLE 23, AND OTHER FEDERAL STATUTES ADMINISTERED BY THE FEDERAL TRANSIT ADMINISTRATION

WHEREAS, the Federal Transportation Administrator has been delegated authority to award federal financial assistance for transportation projects; and

WHEREAS, the grant or cooperative agreement for federal financial assistance will impose certain obligations upon the City of Wichita and may require the City to provide the local share of the project cost; and

WHEREAS, the City of Wichita has or will provide all annual certifications and assurances to the Federal Transit Administration required for the project; and

WHEREAS, the City of Wichita desires financial assistance for support of the following projects: Pursuant to Discretionary Sustainability Funding – Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) Program: 5 Hybrid Electric Propulsion Buses.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

1. The City Manager is authorized to execute and file an application on behalf of the City of Wichita, Kansas, with the Federal Transit Administration for Federal assistance under 49 U.S.C. Chapter 53, Title 23, United States Code, or other federal statutes authorizing a project administered by the Federal Transit Administration to aid in financing 49 U.S.C. §5307 projects.
2. That the City Manager is authorized to execute and file with its application the annual certifications and assurances and other documents the Federal Transit Administration requires before awarding a federal assistance grant or cooperative agreement.
3. That the City Manager is authorized to execute the grant and cooperative agreements with the Federal Transit Administration on behalf of the City of Wichita.

CERTIFICATION

The undersigned duly qualified Mayor, acting on behalf of the City of Wichita, which is the Designated Recipient of assistance under the provisions of 49 U.S.C. §5307, certifies that the foregoing is a true and correct copy of a resolution adopted at a legally-convened meeting of the City of Wichita.

ADOPTED at Wichita, Kansas on August 3, 2010.

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk  
Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

City of Wichita  
City Council Meeting  
August 3, 2010

**TO:** Mayor and City Council

**SUBJECT:** Petition for public improvements in the Parkstone Addition (north of Douglas, east of Hillside) (District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

.....

**Recommendation:** Approve the new petition.

**Background:** On February 6, 2007, the City Council approved Tax Increment Financing (TIF) to develop a residential/commercial area on the north side of Douglas, east of Hillside. On March 18, 2008, the City Council approved a petition to construct streets, parking lots, decorative street entrances and ornamental street lights in the development. The petition provided for joint funding by TIF and special assessments. On July 7, 2009, after a construction contract was awarded, the City Council approved a second revision to the Redevelopment Plan that significantly impacted the project. A new petition has been prepared to update the TIF/special assessment budget split to shift costs from TIF to special assessments based on actual construction costs. The total project budget has not been increased. Under the terms of the TIF agreement, the City is the record owner of the property in the improvement district located west of Rutan, until development occurs, at which time title is transferred to the development company on a tract by tract basis. The signature on the petition represents the development company.

**Analysis:** Once completed, the Parkstone Addition will be privately owned with Victor and Rutan as public streets through the area.

**Financial Considerations:** The existing budget totals \$2,700,000 with \$1,995,000 funded by TIF and \$705,000 by special assessments. The revised budget is \$2,945,000 with \$1,995,000 by TIF and \$950,000 by special assessments. The revised budget covers the original construction contract, the special assessment portion of Change Order No. 1 previously approved in the amount of \$148,034, and the construction claim for \$96,966.

**Goal Impact:** The project addresses the Efficient Infrastructure goal by providing for the construction of public improvements for a new development.

**Legal Considerations:** The State Statutes provide that a petition is valid if signed by a majority of resident property owners or by owners of the majority of property in the improvement district. The City of Wichita is currently the record owner of a portion of the property in the improvement district.

**Recommendation/Action:** It is recommended that the City Council approve the new petition, adopt the resolution and authorize the necessary signatures.

**Attachments:** CIP sheet, petition and resolution.

**CAPITAL IMPROVEMENT  
PROJECT AUTHORIZATION  
CITY OF WICHITA**

USK

To Initiate Project

To Revise Project

a

1. Prepare in triplicate.

2. Send original & 2 copies to budget.

3. City Manager to sign all copies.

4. File original w/ initiating resolution in City Clerk.

5. Return 2nd copy to initiating department.

6. Send 3rd copy to Controller.

1. Initiating Department <b>Public Works</b>	2. Initiating Division <b>Eng</b>	3. Date <b>7/12/2010</b>	4. Project Description & Location <b>Victory and Ritten Parkway, and other improvements in Underdon Addition</b>	
5. CIP Project Number <b>NI-200424</b>	6. Accounting Number	7. CIP Project Date (Year) <b>2010</b>	8. Approved by WCC Date	
9. Estimated Start Date As Required	10. Estimated Completion Date As Required	11. Project Revised		
12. Project Cost Estimate				12A.
ITEM	CO	SA	OTHER	TOTAL
Right of Way				
Paving, grading & const.		\$400,000	\$1,565,000	\$1,965,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Streetscape				
<b>Totals</b>		<b>400,000</b>	<b>\$1,565,000</b>	<b>\$1,965,000</b>
Total CIP Amount Budgeted				
Total Prelim. Estimate				
13. Recommendation: <b>Approve the Petition and Adopt Resolution</b>				
Division Head	Department Head		Budget Officer	City Manager
			Date	Date

	Yes	No
Platting Required	_____	_____
Lot Split	_____	_____
Petition	<b>a</b>	_____
Ordered by WCC	_____	_____
Remarks:		
	<b>100% Petition</b>	
	<b>400,000</b>	

## RESOLUTION NO. 10-213

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT AND OTHER ASSOCIATED IMPROVEMENTS ON VICTOR FROM HILLSIDE AVENUE TO THE EAST LINE OF PARKSTONE ADDITION AND RUTAN FROM DOUGLAS TO FIRST STREET AND PARKING ON THE SOUTH SIDE OF FIRST STREET FROM THE WEST LINE OF PARKSTONE ADDITION TO THE EAST LINE OF PARKSTONE ADDITION (NORTH OF DOUGLAS, EAST OF HILLSIDE) 472-84571 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT AND OTHER ASSOCIATED IMPROVEMENTS ON VICTOR FROM HILLSIDE AVENUE TO THE EAST LINE OF PARKSTONE ADDITION AND RUTAN FROM DOUGLAS TO FIRST STREET AND PARKING ON THE SOUTH SIDE OF FIRST STREET FROM THE WEST LINE OF PARKSTONE ADDITION TO THE EAST LINE OF PARKSTONE ADDITION (NORTH OF DOUGLAS, EAST OF HILLSIDE) 472-84571 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 07-409 adopted on July 17, 2007 Resolution, No. 07-591 adopted on October 23, 2007, Resolution No. 08-145 adopted on March 18, 2008 and Resolution No. 08-284 adopted on June 3, 2008 are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing pavement and other associated improvements on Victor from Hillside Avenue to the east line of Parkstone Addition and Rutan from Douglas to First Street and parking on the south side of First Street from the west line of Parkstone Addition to the east line of Parkstone Addition (north of Douglas, east of Hillside) 472-84571.

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to Two Million Nine Hundred Forty-Five Thousand Dollars (\$2,945,000) of which Nine Hundred Fifty Thousand Dollars (\$950,000) is payable by the petition improvement district and of which One Million Nine Hundred Ninety-Five Thousand Dollars (\$1,995,000) is payable by the TIF improvement district exclusive of the cost of interest on borrowed money. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after July 1, 2009 exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

PARKSTONE ADDITION

Lot 1, Block 1

Lot 1, Block 2

Lot 1, Block 4

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis in accordance with Exhibit A.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment



to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 3<sup>rd</sup> day of August, 2010.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

## **EXHIBIT A**

Lot 1, Block 1, Parkstone Addition, Wichita, Sedgwick County, Kansas, shall pay 1205/10000 of the total cost of the improvement and/or assessment.

Lot 1, Block 2, Parkstone Addition, Wichita, Sedgwick County, Kansas, shall pay 6218/10000 of the total cost of the improvement and/or assessment

Lot 1, Block 4, Parkstone Addition, Wichita, Sedgwick County, Kansas, shall pay 2577/10000 of the total cost of the improvement and/or assessment

City of Wichita  
City Council Meeting  
July 27, 2010

**TO:** Mayor and City Council

**SUBJECT:** Claim approval: Victor and Rutan Paving in Parkstone Addition  
(north of Douglas, east of Hillside) (District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the claim presented.

**Background:** On December 9, 2008, in order to advance a TIF Project Plan for commercial redevelopment in the area of Douglas Avenue and Hillside, the City Council approved a construction contract with Kansas Paving, Inc. to reconstruct Victor and Rutan in the Parkstone Addition. The project plan also included the construction of parking lots, park amenities, ornamental lighting and street entrances to the development. Significant changes were made to the Project Plan by the Parkstone development company and approved by the City Council on July 7, 2009, as the second amendment to the Douglas and Hillside Redevelopment District Project Plan, which effectively converted it into a design-build construction format. The changes decreased the financial commitment for real estate acquisition, and increased construction quantities and costs. On August 4, 2009, the City Council approved a change order that addressed a number of the construction changes known at that time and inherent in the plan revision. Also on that date, the City Council approved a supplemental design contract to complete the additional design services. All public work needed to accomplish that plan has now been completed, and a claim for payment of final construction quantities and costs needed to satisfy subcontractors has been submitted.

**Analysis:** The developer's changes shifted the street alignments, eliminating a planned roundabout, partly to address Fire Department access concerns. The plan changes eliminated the need to purchase property needed for the roundabout, which caused a need for additional and modified street construction. An itemized list of the additional work is attached.

**Financial Considerations:** The total cost of the additional work is \$96,966, which will all be paid through special assessments. The net modifications still fall within the original TIF district project budget.

**Goal Impact:** The project addresses the Efficient Infrastructure goal by providing improvements required for a new residential and retail commercial development.

**Legal Considerations:** The improvement district is a Tax Increment Financing district, with supplemental special assessment financing. The Project amendments were submitted to a new public hearing, and passed by more than a 2/3 majority of the Council as required by state statute. The City is currently the title holder to most of the affected property, and has received the value of the services claimed. That claim represents a legitimate quantum meruit demand for payment enforceable under the district court's equity jurisdiction.

**Recommendations/Actions:** It is recommended that the City Council acknowledge the claim as valid for payment as submitted and authorize the payment.

**Attachments:** List of itemized final charges.

**PUBLIC WORKS-ENGINEERING**April 5, 2010  
**CLAIM APPROVAL****To: Conspec, Inc. d/b/a Kansas Paving****Project:** Victor from Hillside to the east line of Parkstone Addition; Rutan from Douglas to 1st Street & parking on the south side of 1st St from the west line of Parkstone Addition to the east line of Parkstone Addition (n. of Douglas, e. of Hillside)**Purchase Order No.: 801449****Project No.: 472-84571****OCA No.: 766166****PPN: 490184**

<b>Item</b>	<b>Negot'd/Bid</b>	<b>Qty</b>	<b>Unit Price</b>	<b>Extension</b>
Asphalt Pvmnt 5"	Bid	352 SY	22.00	\$7,744.00
RCVG 8"	Bid	177 SY	40.00	\$7,080.00
RCVG 8" (Intersection)	Bid	37 SY	40.00	\$1,480.00
Comb C&G	Bid	81 LF	10.50	\$850.50
Brick Pavers Parking & Drives	Bid	360 SY	90.00	\$32,400.00
Brick Pavers Fire Lane	Bid	400 SF	12.00	\$4,800.00
Driveway Concrete Pavement	Bid	813 SF	7.50	\$6,097.50
MH Adjusted w/o New Ring	Bid	4 EA	1,500.00	\$6,000.00
Sidewalk Pavement 4"	Bid	(2312) LF	3.00	(\$6,936.00)
Concrete Wall & Footing	Bid	(84) LF	475.00	(\$39,900.00)
Manufactured Stone Veneer	Bid	278 SF	27.00	\$7,506.00
Retaining Wall Railing	Bid	(90) LF	114.00	(\$10,260.00)
Stairway Columns	Bid	1 EA	1,050.00	\$1,050.00
Sodding	Bid	67 SY	5.10	\$341.70
AC Pavement (7")	Bid	(529) SY	30.00	(\$15,870.00)
Sidewalk Concrete 6" Reinf.	Bid	25 SY	45.00	\$1,125.00
BMP, Back of Curb Protection	Bid	(3037) LF	0.01	(\$30.37)
Wheelchair Ramp w/ Det. Warnings	Bid	2 Ea	800.00	\$1,600.00
6 1/4" Reinf. Conc. Paver Base	Bid	(77) SF	10.00	(\$770.00)
10" Concrete Flume	Bid	(91) SF	7.50	(\$682.50)
Comb. C&G (Thickened)	Bid	(302) LF	20.00	(\$6,040.00)
Water Valve Adjustment	Bid	2 Ea	600.00	\$1,200.00
Seed Lot (SW Corner of Rutan/Douglas)	Negot'd	1 LS	3500.00	\$3,500.00
Ribbon on Driveways	Negot'd	4 Ea	500.00	\$2,000.00
Tie in down spouts	Negot'd	1 LS	5,875.00	\$5,875.00
Clean up Lot (NW Corn. of Rutan/Doug.)	Negot'd	1 LS	8,000.00	\$8,000.00
				\$8,000.00

**TOTAL: \$96,965.83****Submitted By:****Approved:**\_\_\_\_\_  
Conspec, Inc. d/b/a  
Kansas Paving\_\_\_\_\_  
Date\_\_\_\_\_  
Jim Armour, P.E.  
City Engineer\_\_\_\_\_  
Date

**Second Reading Ordinances for August 3, 2010 (first read on July 27, 2010)**

**Nuisance Abatement Assessments (Districts I, III, IV and V)**

**ORDINANCE NO. 48-787**

An ordinance making a special assessment to pay for the cost of cutting weeds in the City of Wichita, Kansas.

**ORDINANCE NO. 48-788**

An ordinance making a special assessment to pay for the cost of abating certain public health nuisances (lot clean up) under the provision of section 7.40.050 of the code of the city of Wichita, Kansas. Be it ordained by the governing body of the City of Wichita, Kansas.